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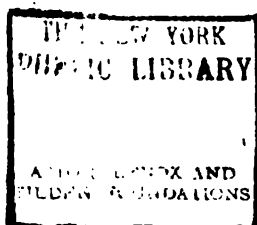
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HISTORICAL OBSERVES

OF MEMORABLE OCCURRENCS

IN CHURCH AND STATE,

FROM OCTOBER 1680 TO APRIL 1686.

BY

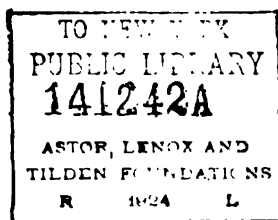
SIR JOHN LAUDER OF FOUNTAINHALL.

PRINTED AT EDINBURGH:

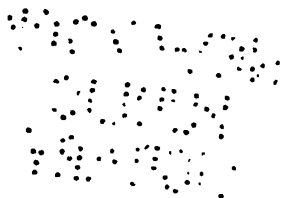
M.DCCC.XL.

H. J.

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AT an Extraordinary General Meeting of the BANNATYNE CLUB, held at Edinburgh, in the Hall of the Antiquarian Society, on Friday the 8th of July 1836:—

RESOLVED,—That the Historical Observations from October 1680 till April 1686, by SIR JOHN LAUDER OF FOUNTAINHALL, afterwards one of the Senators of the College of Justice, with a continuation of Historical Notices of Scottish Affairs, selected from his other Manuscripts, preserved in the Advocates Library, be printed for the Members, under the joint superintendence of ADAM URQUHART, Esq. and THE SECRETARY OF THE CLUB; and that fifty copies of the work be thrown off on a different kind of paper for general sale.

At a Meeting of the Committee of the BANNATYNE CLUB, held at Edinburgh, in the House of the President, on Friday the 3d of July 1840:—

RESOLVED,—That the volume of “ Historical Observes of Memorable Occurrents,” by SIR JOHN LAUDER of Fountainhall, which was circulated among the Members of the Club in January 1838, be now completed as a separate work.

Extracted from the Minutes of the Club.

DAVID LAING, *Secretary.*

THE BANNATYNE CLUB.

DECEMBER, M.DCCC.XL.

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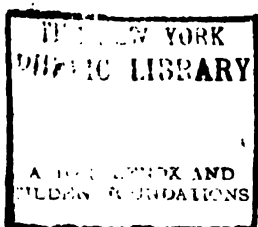
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HENRY PETRIE, ESQ.





Portrait of John de Meillon

1711-1712

JOHN DE MEILLON, M. A. 1711-1712

1711-1712



THE ROYAL CANADIAN MOUNTED POLICE

1711-1712

John de Meillon, M. A. 1711-1712

A few mistakes having been made by the transcriber of the MS., from unacquaintance with Lord Fountainhall's handwriting, the following corrections are requisite: Most of these, however, are very unimportant.

- Page 14, l. 24, *for* by Stewart, *read* Hy Steward.
 „ 24, l. 25, *for* ij others, *r.* j others.
 „ 26, l. 22, *read* Isabel Alison, a Perth woman, the other Marion Harvy.
 „ 46, l. 3, *insert a comma after* Advocat.
 „ 55, l. 23, *for* lenthly, *r.* lently.
 „ 73, l. 10, *for* marked G. *r.* marked E.—l. 11, *for* 2 ,) *r.* 266.)
 „ 87, l. 22, *for* Daver, *r.* Daveis.
 „ 123, l. 8, *for* Mevia, *r.* Nevis.
 „ 141, l. 25, *read* Semple and [Thomson.]
 „ 180, l. 8, *for* plate, *r.* place.
 „ 189, l. 1, *for* 23 of December 1682, *r.* 20 of November 1681.
 „ 201, l. 13, *insert a comma after* Charleton.
 „ 205, l. 7, *for* Melthorp, *r.* Nelthorp.
 „ 208, l. 8, *for* Griffiffa, *r.* Griffiths.
 „ 253, l. 13, *for* redarque, *r.* redargue.
 „ 254, l. 4, *for* Holland, *r.* Island, [Iceland.]
 „ 254, l. 25, *for* intend to, *r.* intend, God willing, to.
 „ 255, l. 1, *The following marginal note was accidentally omitted.*

As particularlie anent some cruelties done by the Dutch at Amboyna, in March 1623, upon many English, most barbarously torturing them to death, under pretence of their accession to a forged conspiracy of the Japonese, for taking in their fort of Amboina, and for which Oliver caused them pay him a considerable soume. Sie the Dutch treacheries and cruelties in S. G. De taon beside me.

- „ 255, l. 10, *dele* heir.—l. 11, *insert in blank* it had bein.—l. 12, *r.* [Few] privat.—
for our King and them, *r.* our King and the States.
 „ 256, l. 14, *for* seazing, *r.* seasure.—l. 29, *for* deputes pretend, *r.* depute pretends.
 „ 258, l. 3, *for* seamen, *r.* samen.—l. 6, *for* one place, *r.* first place.
 „ 259, l. 14, *for* their's or, *r.* their's and.—l. 27, *for* tho no, *r.* tho 100.
 „ 260, l. 3, *for* man, *r.* man can.—l. 14, *dele* the *before* sentence.—l. 25, *for*
 revelant, *r.* relevant.—l. 27, *insert to before* suffer.
 „ 261, l. 11, *insert and after* owners.

JEHOVAH PORTIO MEA.

SOME HISTORICALL OBSERVES
BREIFLIE MENTIONING
SOME OF THE MEMORABLE OCCURRENTS
HAPPENING ATHER IN CHURCH OR STATE
THROW EUROPE
BUT MORE ESPECIALLY IN SCOTLAND
AND ENGLAND.
BEING A CONTINUATION OF REMARKS OF THIS NATURE
IN ANOTHER 8vo. BOOK.

[M.DC.LXXX.—M.DC.LXXXVI.]

HISTORIA EST LUX VERITATIS, MAGISTRA VITAE, &c.

IN ane thick 8vo. Manuscript, opening by the length, marked with the P. 1. letter F, I have sett doune some Miscellanie Historicall Collections of the affairs of the Ile of Brittain, but particularly of Scotland, digested into Annals, (in imitation of Tacitus,) by order of tyme as they occurred; beginning at 1660, and ending in October 1680; but with many omiffions, it being oft intermitted and neglected by me. Yet the pleasure ther is from such observations hath so far prevailed with me, that seeing the forsaide Manuscript is now filled, I have resolved to continue them heer, *modo propitium fit numen.*

The last observe I made in that other litle Manuscript, at page 222 of it, (which falls to be about the midle of the said book,) is anent the invectives and pasquills flew abroad in England, on the approach of the fitting of the English Parliament on the 21st of October 1680; and the Popish project of furnishing our King with French gold, he indirectly suffering Tangier to fall unto the French King's hands. What I shall begin this book with, is the Duke of Albany and York's voyage for Scotland. *Quod felix faustumque fit.*

[POSTSCRIPT.] What materialls I have gathered in this and my other books, are only for memoires, scedules and heads, from which a more exact Annal or Historie may be compiled, (if God give tyme;) ther being many errors and mistakes heir insert, on trust and from report, which on review will be purged and cut of; and many things will be added or enlarged from thir abbreviats. This is to prevent my oune lasines, and to mind me this Collection is far from being compleit or perfite; being set doune onlie for the prima cura, as any thing occurred or came to my notice, without full examination; which I left to the 2d review.

HISTORICAL OBSERVES.

OCTOBER 1680.

His Royall Highnesse the D[uke] of A[lbany] and Y[ork,] having been earnestly delt with by the King's Privy Councell in England, (who sate 2 dayes without interruption almost theiron,) to declare himself Protestant, and he refusing to goe against his conviction, he was advised to retire unto Scotland, in regard the King's necessities pressed to give way p. 2. to the Parliament's fitting; and accordingly he parted on the 20 of October with his brother at Woolwich on the Thames, and arrived at Kirkcaldy bay on the 26 thereafter, having borne out a mighty storme. The Chancelor and fundrie of the nobility and gentrie of Fyffe, and a part of his Majestie's guards, attended his landing, and he with his Dutchesse ware conveyed straight to Leslie, wher he stayed till the 29 of October; on which day he came from Bruntland to Leith; from which, in much solemnity, he was conveyed to the Palace of Halirudhouse. (See his former reception in the other manuscript at the 21 of November 1679, page 178. See my law folio manuscript at the 2d of November 1680. See the printed narrative of his reception.)

A litle after his arriveall, having visited the Castle of Edinburgh, and for a testimony of joy the gun called Muns Meg, being charged by the advice of ane English canoneer, in the shooting was riven; which some foolishly called a bad omen. The Scots resented it extreemely, thinking

the Englishman might of malice have done it purposely, they having no canon in all England so big as shee.

About this tyme on Mr. William Wifheart, minifter at Wells in Anandale (Nithsdale,) deserted his miniftry, and sent a dimiffion of it to the Presbyterie, and turned Roman Catholick : so this is one of the remarkable trophees and spoills the Papiſts are beginning to gain upon our religion.

On the 21 of October 1680, the English Parliament met ; where the King had a pertinent discourse at their opening, to which I refer, because it is besyde me in print. The Commons, *nemine contradicente*, elect one Mr. William Williams, (vide infra pa. 16,) recorder of the city of Cheſters, for their Speaker, who had been eminent in his opposition against the Duke of York ; he is approved by his Majesty, and obtains a grant of the 3 usuall preeliminaries, that the members of the house, their goods and servants, be free from arrests, that they may have freedom of speech within doors, and may have ready access to his Majesty when required. By an unanimous vote, they declare it was and is the duty of every true Englishman to petition the King for the fitting of the parliament, (tho we find in the other manuscript, page 181, the King by proclamation had discharged it as factious, and seditious, and contrary to his prerogative,) and that these who gave in declarations bearing their abhorrency at these petitioners, were not dutifull subjects, and were therefore in contempt called the Abhorrers. (Vide infra pag. in principio.) They likewise resolved upon a bill for disabling the D[uke] of York, or any other Popish successor, from inheriting the Imperiall crown of England. The Duke's party comfort themselves with this, that there was great bustle and opposition made before, against both the entries of Queen Marie and Queen Elizabeth in England, as being unlawfully begotten ; and yet after the case of their successions existed, they were admitted by the people of England, and did reigne peaceably all their lifetime ; and the Duke hopes it may even so befall him.

Some ridiculously imagined they found a similitude betwixt *Dux Albanus*, the tyrannous Duke of Alva who oppressed the Hollanders, and *Dux Albania* the Duke of Albany and York.

It is the observation of a learned man, that England in the space of 20 years changed oftener her religion than all Christendome had done for 1500 years before; for they made 4 mutations and transitions from 1540 till 1560. King Hendry the 8th abolishes the Pope's supremacy and suppresses Abbacies, but retains the bulk of the Popish religion; his son Edward brings in the Reformed religion; Mary when she succeeds throws it out and introduces Popery; Queen Elizabeth banishes Popery again, and re-establisheth the Protestant religion; and all this done in less than the forsaide space.

Not only too many amongst ourselves, but the French turned the Plot into matter of sport and laughter; for at Paris they acted, in their comedy called *Scaramuchio*, the English tryall, and busked up a dog in a gowne like Cheiff Justice Scrogs, and a thief is brought to the bar and accused P. 3. that he had stollen one of the King's great ships carrieng 100 guns, and had conveyed it away under his cloak. The pannel defends himselfe that the fact libelled against him was impossible to be done, and they might as weell say he had taken away Notre Dame Church on his back. Scrogs cries, No, firrah, you did it, we can prove it, call the witnesses. And so on is brought in like Titus Oates and Bedlo, who depone they saw him doe it.

On the 12 of November 1680, a part of his Majesties forces apprehend some of Mr. Donald Cargil, the minister (who escaped narrowlie), his associates, viz. on James Skein a wryter youth brother to the Laird of Skeen in the North, on Archbald Stewart skipper in Borrowstounnesse, [Robert] Hamilton in Broxburne, and [John] Spreul apothecarie in Glasgow. As for James Skein, tho formerly known to be a simple lad, yet was [he] so obstinately stout that, both in face of Privy Councell and of the Criminall Court, he owned Camron's declaration of war against Charles Stuart (as he

called the King) at Sanquhar, approved ther fighting at Bothwellbridge, Moorkirk, or Airdsmoss, ther covenant, ther excommunication, &c. tho he was present at none of them, and that he had freedom to kill the King as an enemy to God and the country, and subscribed the same. It was a pity to see his forwardness, considering, if he had refrained what he confessed with his own tongue, no probation could have reached him. Some concluded him melancholy and hypochondriack. The other 3 (tho tortured in the boots) would give no positive categorical answer to that question, If they thought it lawful to kill his Majesty? but would rather call it lawful nor unlawful: so that they are singly guilty of a perverse obstinacy in opinion, which principle might be fatally dangerous if they should happen to put it in execution, as God forbid.

William Johnston and some other marchands were seized on upon a suspicion; but their being no evidence against them farther than that they were strict Presbyterians, they were set at liberty.

Old Mr. John Carstairs, once minister at Glasgow, being brought before the Privy Council, gave a very satisfactory account of his submission to and acknowledgement of the King and Council's power. The Bishop of Edinburgh declared his contentment, but alledged, he swerved from the Presbyterian principles, in his acquiescing to the government and disclaiming the rising in arms. Mr. Carstairs, picked at this, replied, he paid all deference to the King's Council, but he did not own Mr. Paterson's power as a judge their; for which he was removed with a rebuke.

When the Bishop of Edinburgh was reasoning in Council for the Militia Act, one whispered to another, Come let us hear the Apostle Paul discoursing on the Militia: Episcopus Miles is an incongruity. (See Zieglerus book, so called, against the late Bishop of Munster, Christopher Bernardus.)

James Skein and the other 3 have got an indictment of treason to answer at the Criminal Court on the 22 of November next; and the Advocate

then only infisting againſt Skeen, and he adhering to all he had formerly declared, with this qualification, that he thought it lawfull to kill the King if he came in armes againſt them, he was ſentenced to be hanged on the 25 of November, and his head to be thereafter ſtricken of. He was repreived; *de quo vide infra* page following.

15 Novembris 1680. The Lord Ruffel and 200 of the Houſe of Com- P. 4.
mons, having brought up to the Houſe of Lords the ingroſſed Bill, paſt after 3 ſeverall readings in ther Houſe, againſt the Duke of York, for diſinheriting him and all papifts from ſucceiding to the Imperiall Croun of England, France, and Ireland, (mentioned ſupra page 2,) but prejudice to the neareſt proteſtant ſucceſſor, and that it ſhould be treaſon to cor- reſpond with the ſaid Duke, &c.; the ſaid Bill, by plurality of votes, was rejeſted, ther was 30 for it, and about 62 or 63 againſt it, and all the Biſchops, ſave only 3 votes, viz. Compton biſchop of London, brother to the Earle of Northampton, Doctör Pearſon biſchop of Cheſter, and Thomas Lamplugh biſchop of Exeter; all the reſt of the Biſchops ware for the Duke of York's ſucceſſion, though a papift, thinking it unjuſt to deprive him of his birthright for his opinion: The peers ware not frequent when it was voted, but many ware abſent; *vide infra*.

Ther was only 3 members in the Commons Houſe againſt this bill, viz. Mr. Seymour, late ſpeaker, Laurence Hyde, the Duke of York's brother-in-law, and Sir Lionel Jenkins; ſome affirme ther ware many mo againſt it.

James Skeen, (of whom mention is made in the preceeding page,) having been perſuaded to apply to the Duke of York and the Councell, for a delay of putting his ſentence to execution, till he had tyme to confer with learned and pious men, and informe himſelf of his principles, he obtained a repreive to the 1 of December; but he repented of this addreſſe, and obſtinatly maintained his former tenets.

On the 29 of November 1680, Archbald Stuart and John Potter being pannelled for the ſame crymes at the Juſtice Court; Stuart very boldly

owned all they had done, and confessed he was at Airdsmoffe fighting against the King's forces; Potter was more timorous, but his hand was at a bond with some 30 others, wherein he renounced the King; he would have qualified his adherence to these practises, in so far as they agreed with the Word of God; but both of them are condemned to be hanged on the same 1 of December, to which day Skeen was delayed; and accordingly, they were all 3 hanged at the Croce of Edinburgh on that day, Skeen being all cloathed in white linnen to his very shoes and stockings, in affectation of purity and innocencie, and I wish it might be a prælibation and type of a white robe to be given him in Heaven; however, the singularity was unnecessary, if not wain. I conferred with him the day before his suffering, and with the other 2, I found him very settled and composed with much humanity and civility, but still owning his opinions; he pretended to much peace and assurance of salvation, and upon my reasoning, he confessed some hæreticks had dyed with much seeming constancy, but he hoped his was of another sort; he could give me no solid or satisfieng returne; to that I urged, ther was no difference betwixt him and us in fundamentals, and that many godly presbyterians disclaimed the principles he was to seal with his blood; only he affirmed the Episcopall and Eraftian Government had introduced errors in fundamentalls, besydes profanity and other immoralities; wher I pressed, we that are privat persons ware not to answer for the faults of governors, but only to pray and mourn for them, he affirmed, from the old prophet's example, that we are bound to coerce them, &c. Assurance of salvation is always hung on the chain of truth, so that we may doubt the boastings of men dying in a knowen error, that ther confidence may be on mistaken grounds. Many thought, since he had committed no cryme deserving death, the

P. 5. only wenteing of thesse opinions (being interrogated thereon, wheiranent men (unlesse suspect) should not be insnared), should not be capitally punished, but some said he should be put in phisitians hand for phle-

botomy, and dyet to purge his melancoly, and kept in perpetuall prison and firmance, that it might not be in his power nather to disseminat nor practife any of his dangerous positions; the fear is, he might escape and perpetrate on the King, or others, his bloody zeall, and then it would be *vulneratâ causa remedium querere*. It is true, the putting to death for opinions, is a popish maxime not yet receaved among protestants, but that is to be understood when a man conceals it; but if he openly avow doctrines destructive of all government, the sparing such might in the event prove cruelty; (see the marginal note on the A& of Parliament, James VI. Parl 3. A& 47, in 1572.) Mr. James Guthry minister, in 1662, suffered death for his judgement; and the very declining his Majesties authority, is declared treason by act 129 in 1584, so persons doe not advert to the hazard of the dissolution of all government, (which Camron, Cargil, Skeen, and these men aime at), who think it was hard to take ther lives for ther opinions, having perpetrated no capital action, and though *Lex unica C. fiquis imperatori maledixerit*, seemes to pardon words against the Prince, yet that is wheir they proceed *ex levitate et infantiâ*, and not when they are malicious to shake of the King whollie, and affirme since they are in a declared war with him, that he may be lawfully killed as an enemy, ane perjured apostat, ane excommunicat, &c.; for the poisonous leven may diffuse throw the giddy people loving changes, and alwayes inclined to beleive the worst of ther rulers, and may throw us in the same state convulsions such tricks did formerly draw on us. See in my folio law manuscript, Neving's case, condemned for words against the Duke of York, its at the 15 and 16 July 1680, page 156.

In the debates betwixt the learned Origen and the Heathen phyfitian Celsus, Origen, boasting of the great constancy and joy with which the Christians ran upon martyrdomie, Celsus answers, this was no argument of a good cause, but might proceed from a blind misguided light of zeall, from ostentation, and a stubborne præfactoriness and stiffness of humor.

It is a strange humour of dying, Plutarch tells, some Milesian virgins took of killing themselves, which they could not get stemmed till they exposed some of their bodies ignominiously to public view.—See Plutarch.

The cause must be very commendable and just, and clearly founded in the word of God, ere a man can be esteemed a martyr for suffering in it: see Rathillet's death alibi; as to pretended constancy in dying, of Servetus and others of the Devill's martyrs, *Non poena sed causa facit martyrem*, (Cyprian,) *et schisma vix martyrio eluitur*; and a martyr ought to have a clear call and a humble frame and preparation of spirit, and knowledge what he dyes for.—See the other octavo Manuscript, page 194 et sequentibus. Vide infra of 2 weemen execut for this same cause, page 13; and Alexander Hamilton's case ther.

In November 1680, we had the accompt of a most dreadfull earthquake at Malaga in Spain, (our colder climate is fortunatly free of such,) which made terrible demolitions and devastations, the ground opening and swallowing up all about it, and particularly a river, which afterwards it cast out with so great violence, that it made an inundation.

In November 1680, Mr. James Lundie, one of the principall Ministers of Edinburgh, removed himselfe to Dalkeith, whither he got a call, which I mark as extraordinary, for to leave a better stipend to goe to a much leaner; their were fundrie conjectures about it, some thought the Bishop was displeased with the freedoms he sundry tymes used. On his removeall was advanced, in Februar 1681, on Mr. Ro^t Bruce, minister at Auldeir; in this different from the great Mr. Ro^t Bruce, in King James the VI tyme, that this Mr. Ro^t is for the hight of Episcopacie, which the old Mr. Ro^t strugled much against.

- P. 6. Supra page 4 in princ: we have seen the Commons disappointed in their designe of disinheriting the D. of York, now they fall upon other methods for securing the Protestant religion, as, that an bond of association be entered into for preserving our King's life and our religion; of

which see more in the other Manuscript in 8vo. page 181 ; and 2do. That the act excepting and frieng the D. of York from taking the oaths of alledgeance, supremacy, and declaration, be repealed. See of this in my law Manuscript in folio, 4to Dec^r 1679, page 99. 3tio. That the post office, Portsmouth, and the fleet be taken out of the said Duke's hands, and his gift to be Admiral of England declared null. 4to. Ane addresse, that George Earl of Hallifax (who very lately was the great idol of the Commons, but had now deserted them, and stept asyde to dine with his Majesty) be removed from the King's Councells for ever. The King's answer to this last was a discreet refusall, but if they would impeach him, or any other of his Councell, for any cryme, he should not hinder the course of justice against them. See the following page, and page 9 in calce.

On the 3d of December 1680, on Dryfdaill, a weaver, assaulted on of his Majesty's guard called Masterton, about Kirkclifton, railing upon him as on of them that was accessory to the murdering of the people of God, and particularly of James Skeen and thesse other innocent persons who had suffered tuo dayes before, and he wounded him with a sword ; wheirupon the trouper pershueing him, did at last apprehend him and bring him in prisoner to Edinburgh, wheir he feingied himself to be distracted. See the Edenborough Weeklie Gazet.

On the 6th of December 1680, dyed Æneas Lord Macdonald, a bold man, and a great opposer of Argyle's, and defender of the Maclean's interest, and who had a great influence and command in the Hylands, though his private estate was very low, only he was popish, which made the Duke of Y. regrate his death the more. Vide infra, page 8, Aboyne's death.

About the 12, 14 of December, and for fundry dayes thereafter, a formidable comet appeared at Edinburgh, and was seen in many other places. It arose in the west from a small star appearing a litle after day light was gone,

and moved northward, and sent out a prodigious long taill, greater then any that had been observed for thesse many 100 years. Some doubted if it was a comet, (it was a reall comet) but called it that meteor which goes under the name of Trabs or Columna; however it was red, and interpreted by every on according to ther severall jealousies and interests. Generally comets are thought to portend war, desolation, blood, ruine, conversions of states, catastrophes of kingdomes, deaths of great men, sterilities, famines, plagues, &c.; and in respect of the present fears of confusions and disorders, each applyed it as he pleased. Some said, you banish, confine, and imprison our preachers, but ther is a preacher sent from Heaven, who is without the reach of malice. Rushworth in his Histori-call Collections, in anno 1618 page 8, tells of a great comet appeared in that year 1618, wheirupon ensued, first, the Bohemian wars, then P. 7. the German and Swedish, &c. Doctor Bainbridge observed it to be verticall to London, and to passe over it in the morning, so it gave England and Scotland in ther civill wars a sad wye with its taill. They seldome shine in wain, though they proceed from exhalations and other naturall causes. See Lucan's description of that comet, which appeared before the civill wars betwixt Cæsar and Pompey, de bello Pharfalico libro. See infra this same page, and infra page 39 in principio.

In the beginning of December 1680, Howard Viscount Stafford, on of the 4, 5 popish lords imprisoned in the Tower, being accused in name of the Commons of England before the House of Lords, and the Lord Chancellor nominate by Stewart for that effect, after a fair tryall of 5 dayes, and a probation by Oats, Dugdale, Turberville, and others, that he was present at consults wher the King's death was proposed, and that he had offered Turberville 1500 lb. sterling to kill his Majesty; the Lords, by the plurality of votes, found him guilty of treason, though every overt individual act was not proven by 2 concurring witnesses, for they judged it enough that the witnesses agreed on treasonable acts in the generall, and each of them de-

poned on speciall deids though they ware severall ones, which adminiculative probation, Cavalcamus and other Lawyers approve of in crimine læsæ majestatis; and therfor, he was condemned to be headed on the 29th day of December 1680, which was accordingly done at Towerhil on that day. See his printed speach, apud me. The Chancellor in his speach to him hath this expreffion, that the Plot was now clearly made out and proven beyond all contradiction and doubt; which is a great conviction of its reality, this flowing from him who was no hearty encourager of the discoverie of this Plot. It is reported this V. Stafford had been only a filly man, and exceeding vitious. See animadversions on his speach in my 4 Manuscript marked A 3, page 22. I find 55 Lords of the House of Peers voted him guilty upon ther honor, and 31 not guilty: the Bischops abstained from voting. See his printed tryall. Vide of Turberville, infra page 21.

In prosecution of what we spoke supra, in the præceeding page, of comets, the place and situation thereof is much questioned; of old it was thought by Aristotle and others, they did not aschend above the third region of the air, but ware generat ther with other meteors, and the learned Julius Scaliger hath interpolat and defended this opinion, but, however eminent he was in other knowledge, it appears from his disputations against Cardan, he was no great astronomer nor mathematician: now commonly Tycho Brache, Galileo, and others, they place comets above the sun and other planets in coelo 8vo., because they find they have no parallaxes for the most part. See this noted in another manuscript, page 67. As to the effects, prognosticks, and significations thereof, some will allow them none at all, because, forfooth, during all the reigne of Nero, comets appeared very frequent at Rome; so the people concluded the signe gave them hopes that the tyrant should shortly be cut of, and when he was killed ther was no comet at all appearing. But this is only a particular instance, and the effects of thir fatall and ominous stars doe not follow

immediatly; some think it takes as many years to operate as it appears nights. Others will only have them to be the fore-runners of evill, but ther is no reason to restrickt ther influence solely to malignity. For, if that was a comet which appeared to the 3 wise men, and directed them to Christs cradle, (as some learned men, viz. Grotius in his annotations on the 2d of Mathew, will have that star to be on,) sure I am it portended the greatest good that ever happened to poor mortalls. It is true, that sad comet which hung over Jerusaleme by the space of a year before Titus Vespasian took it, in the forme of a bloody sword, pointed out fearfull defolation approaching to these stubborn Jews; yet it had on good signification, that the glorious Gospell was to propagat and spread from thence

P. 8. to all the Gentile world, which immediatly followed. Josephus and others tell of strange prodigies were seen in the air and the earth before the destruction of Jerusaleme, as armies of cavalry and infantry drawn up, voices in the temple, the door locked opening of its owne accord, a man crying to them to depart, and no whipping would hinder him. Which minds me, before the German wars by Gustavus, Mr. Clark and others tell, befide the comet mentioned supra page 6th, ther were direfull accidents, showers of blood, a child borne at Magdeburg with head peice and all other armor of flesh, weemen cutting breed, blood gusheth out, &c. (See prodigious signes in the 2d of the Maccabees, cap. 5, v. 2, and 3, item, cap. 3, v. 24, cap. 10, commate 29, cap. xj. v. 8.) See many other terrible prodigies in Germany, marked by Clark in his Generall Martyrologie, page 219 et sequente. I have seen a printed book anent a great comet appeared in Scotland in December 1652. Christ, in the 24 of Mathew, v. 29, tells us there shall be signes and wonders in the heavens, so they are not altogether accidentall, though we are not to rely to much on them, for God forbids that by the prophet, I will make the diviners mad, which was to fortify the Jews against the poison of the Chaldeans, who were miserably addicted to this curious wain judicciall astrology; see

Howards Defenfative againſt the poiſon of pretended Prophecies. It is a true Latin proverb, *Sapiens dominabitur aſtris*, and eſto, that *Aſtra regunt horas*, which may be denied as to our minds and wills, except in ſo far as they are organically influenced by our bodies, yet *Regit aſtra Deus*. Ricciolus, in his *Almageſtum Magnum* hath deſcribed all the comets ever were heard of before his tyme; but I dare ſay, theſe 3000 years, ther was not a comet ſeen with ſuch a long ray, and prodigious byſſome and taill, as this preſent on is, which is near 3000 miles in longitude. See our Weekly Gazette for this, making it 60 degrees, and each degree is 60 miles. Some affirme that comet in Germany in 1618 had its taill 90 degrees long, which, if true, is 30 degrees longer than this.

The learned preacher to the learnedſt auditory in England, the Innes of Court, Mr. Gataker, wryting againſt that impoſtor Lillie, the aſtologue, he reaſons why that great ecclypſe of the ſun in 1652, which occaſioned a darkneſs for a while, could have no ſignification, for it is all on in nature whither the ſolar ecclypſe happen by intervention of the moon or of the earth; now every 24 howers the earth interpoſes betwixt the ſun and us, and the night makes a greater and more totall ecclypſe then any occaſioned by the moon's intervention, (I doe not ſpeak of that ſupernaturall ecclypſe at Chriſt's paſſion,) and yet no man counts this ecclypſe ominous, but ſleeps quietly till the ſun's refreſching beams bring back the day again: ſee Obſerves from Mr. Gataker, upon lots and chance games, alibi in a quarto manuſcript, page 43. Some make the riſe of comets to be occaſioned by the concurrence of 2 fixed ſtars, wheir the on falls out of its oun cycle, orbe, or vortex (to ſpeak in Cartefius words) unto that of another ſtar, and its ſtrength and influence is theirby diffipated, abſorbed, and ſucked up, and the brightneſſe of it ſpends itſelf in that taill we obſerve the comets to have. Of comets ſee Mr. D'Avity, diſcourſing very largely in the Introduction to his *Monde Univerſelle*, page 101 et ſeq.: vide infra, the effects of it, page 20. Sin and ſecuritie abounding in

Scotland are sadder and surer prognosticks of blood and desolation then any comet can be, which, by no astronomical or natural efficiency, can portend or signifie such things, farder, then the air infected by it may occasion sterility, pestilential diseases, and famine.

About this tyme dyed Gordon, Earle of Aboyne, a man of much natural sharpnes and a very good poet; was popish, but made a faint profession of being converted to the reformed religion. Vide supra, page 6, Macdonald's death.

On the 26 of December 1680, being Christmas day, some of the schollars P. 9. of the Colledge of Edinburgh having contributed together for the making ane effigies and image of the Pope, they entred in a bond and combination to burne him after a solemne procession on Yuille day, and gave oaths on to another for the secrecy of it; yet it came abroad, and a Councell being called on the 24 of December, at night, for preventing it, they ordered the Kings forces to be brought within the City of Edinburgh to oppose it, and seized on some English boyes of the name of Gray and others, the next morning in thair beds, and imprisoned thame. Yet all this did not divert the designe, but, by a witty stratagem, the boyes carried a portrait to the Castlehil, (as if this blind had been the true on, and they had intended to carry it in procession doune the streets, and performe ther ceremony and pageantrie in the Abbey Court over against the Duke of Albanies windows,) which made all the forces draw up at the West Bow head, and in the Graffe Mercat, leif the boyes should escape by coming doune the South Back of the Castle, and thus having stopped all avenues as they thought, thir boyes escaped by running doune vennells leading to the North Loch side, and other boyes carried the true effigies from the Grammar Schooll yeard to the head of Blackfreis Wind, and that on the Hy-Street, first clodded the picture with dirt, and then set fyre to the powder within the trunk of his body, and so departed. This was highlie resented by some as an inhospitall affront, designed to the Duke of York, (though

it was only to his religion and not to himfelfe,) being a ftranger among us, (though he be defcended of Scots blood,) and that it was but ane aerie of the London apprentices, who had done the like before, and that it opened the Papiſts' mouths to call us cruell. But what the boyes did in ſhow, the Papiſts ware wont to do to us as hæreticks in reality; and ſome thought boyes might as well ſport themſelves with this, as miniſters in the pulpit affirme the Popes to have been bougerers, hæreticks, adulterers, forcerers, ſodomites, &c.; the puniſhment wherof by all laws is *Vivi comburium*, burning alive;—and it was a compenſation for his excommunicating all Proteſtants yearly on this day. In ſumme, it was a childiſh folly, and ſcarſe deſerved ſo much notice ſhould have been taken of it. I find in John Knox his Cronicle, book 1, in 1555, page 103 and 104, on of the beginings of the Reformation of Religion then was by burning St. Giles image in Edenbrugh, and a 2d being made, it was wrung out of the preiſt's hands and broken in peices. See a printed Apologie for this fact of the Students, in a 4to manuſcript marked A 3. pag. 23. Vide *infra*, page 26.

For a farder testimony and bravado, the ſchool boyes, with the apprentices to merchands, trades, and wryters, with other ſervants, got all the badge of blew ribbans in ther hats, with thir words embroidered on them: 'No Pope,' 'no Preiſt,' 'no Biſhop,' 'no Atheiſt;' ſome of the Episcopall and Court party have in oppoſition got rid ribbans, with this engraven, 'I am no Phanatick,' as if all who declare againſt popery ware phanaticks; this minds me of the old quarrell of Cavaleer and Round head, and betwixt the Guelfs for the Pope, and the Gibelins for the Emperor. Vide *infra*, page 11, anent the burning of Preiſtfeild. Vide *infra*, page 28. I hear the watermen and apprentices of London, in this far have imitat us, (though otherwayes they diſdaine us,) that they have all got up the blew ribban with 'No Pope' woven on it. In the 15 of Numbers, v. 38, God appoints the Iſraelites to wear a blew ribban.

About the same tyme, a hypocondriack fellow was imprisoned in the Canongate, for teaching that the day of Judgement was to be the next day, and offered himselfe willing to be hanged, if what he averred should prove false. See in my former manuscript in August last, anent the 2 Galileans at Tholouse; it's page 210. Vide page seq. in fine.

The House of Commons, besydes ther former Adresse to his Majesty, (vide supra, page 6,) which was plain enough, they present a new one upon the 21 of December, 1680, in answer to his speech of the 15 of December before; in which speech, the King had offered to concur with them in all remedies for securing ther religion and property, except the
P. 10. diverting the Succession of the Crown out of its naturall channell and course. The Commons in this Adresse, beg his Majesty to depart from that reservation, and to pass ther bill for disinheriting the Duke of York, or any other Papist from ascending the Imperiall Throne; and entreat him to consider, seeing they have growen so numerous under him, how they would encrease if ther be hopes left of a Popish successor, and that all sincere Protestants may resolve to be destroyed, seeing the Duke hath promised to forraine Popish Princes, to extirpate all hæreticks so soon as he has power; and all this while he hath so influenced his Majesties Councils, that in 1673, the King's resident and agent in Holland presented a memoriall to the States Generall, and pressed them to yeeld to the French King's demand, that the Roman Catholick religion should be publickly established throw all these provinces, which was a most absurd demand from the Embassador of the King of Brittain, who hath the honor and reputation of being the head of the Protestant interest. Nota, this is in the first Adresse; then they adde, they intend to debar none of the Royal line but the Duke of York and Papists, but if the King refuse to comply with this ther desire, they advise him to look if he do not provock such a great part of his people to oppose the Duke of York's entry to the Croun, as may endanger the seclusion, not only of the rest of the Royal

line, but even the English monarchy it selfe: which is a dreadful boast that they will erect themselves in a commonwealth; but this would entail an everlasting war upon them, as long as any of the Royal line were in being and capacity with forraine help to disturb them, though they should sell their right, and take it holden as a feudatary Crown of the French King, and when they were lately reared in a republick, they naturally slid back again unto a monarchy. Then follows an advise to his Majesty, that none be put in places of judicator, magistracy, government, or military trusts, but such as are of known integrity and affection to the Protestant religion, and that they be secured their of, *Quam diu se bene gesserint*; and complains, that, by the Duke of York's power, honest men have been turned out of their offices, and men of known principles for Popery and Arbitrary government invested in their rouble, and concludes, these things being granted, they will supply his Majesties necessity for Tangier, and all his other concerns in forraine alliances, &c. This is a severe and shrewd paper, and some marvelled at the King's patience; (see the 4to manuscript, marked A, page 18,) the King is of a better nature than many other princes have been, who were jealous of their brether, and alwayes suspected the next successor to the Crown, and were willing to deprese them, being angry to see the rising sun so much worhipped. Upon the back of this addresse followed the Earle of Shaftesburies speech in the House of Peers, in his Majesties owne hearing, ripping up the faults of the King's government with more plainnesse than any ever yet did; and in effect, resolved in this, that the people of England had been so oft cheated, they would not trust the King's promises, nor give him money till first he performed what they desired of him, viz. to quite his Popish quean, Popish brother, his whoores, his councillors and his new convert, and cast himself in his peoples armes, change his court and principles, and once be himselfe. See it at large. Shaftesburie refused part of this printed speech to be his; and it was brunt by the hand of the hangmen.

Many other things at this tyme concurred to fright us, as a vision seen by a countryman called Zuille; while he was wondring at the comet, he saw a fyre descend from the Castle downe the city of Edinburgh to the Abbey, and then he heard a voice saying, 'This is the sword of the Lord,' and other things which he would not utter: it was on Charles Gray a merchant in Edinburgh, saw this fire, but Zuille heard the voice. On in a souldiers apparell comes to Sir George Monro at mid day in the streets, and bids him goe down and tell the Duke of York. If he did not

P. 11. counsell his brother the King to extirpate the Papists, both the King and he were dead men; and Sir Geo. turning about to call some witnesses, the man in a sudden retired he knew not whither; like the admonition given to our King James the IV. before he went to Flouden, wher he was killed,—the old man evanishing, the diligent search was made after him: see Buchanan and others for this. Vide pag. 9 supra, anent the prophecy that Doomſday was the morrow. We had account of strange visions and apparitions seen in Germany, like these which the country people observed before the last great war. (See le Journal des Scavans, of the year 1665, printed in 1666, page 170.) It is an old observation of the excellent historian Philip de Comines, that the English nation is superstitiously fond of apparitions, visions, prophecies, and wonders.

ANNUS 1681.

ON of the first things we heard at the entry of this new year, was of the death of Mr. John Welsh, on of the eminent Conventicle hill preachers in Scotland: he had been the occasion of seducing many people away from the orderly government of the Church; he was both in the insurrections at Pantland lands and Bothuelbridge, but was not so grosse as wholly to disowne the King with Camron in the proclamation at Sanquhar in June last, or to excommunicat him with Cargil in September last, tho he was a great enemy to the Bishops; as his Grandfather of the same name in the reigne of James the VI. was, and was banished for it, and lived in France, and see strange things of him, both in the preface of his book called Popery Anatomized, and in the Status Ecclesiæ Gallicanæ, or the Ecclesiasticall Historie of France, page : So that this Mr. John Welsh, his grandchild, in comparison of these other hotheads, may passe for a soberer man. He dyed at London. Ther is but a small remnant of these disorderlie ministers now left, unlesse a new fleece arise to oune the same principles.

10 Januarij 1680–81. The King, being very exceedingly displeased P. 12. with the House of Commons, who would yeeld to nothing except the King passed the bill secluding his Brothir from the croun, and rejected all other remedies proposed, both as insufficient to heal and as dangerous, he prorogued them to the 20 of Januar; which put that bill, and all others unpassed, quite of the hinges, and out of doors. Some thought it had only been to give them occasion to bring in the bill of new, since, by ther

custome, a bill rejected cannot againe be presented that Session of Parliament, but the event disproved this. It was observed, that the same day whereon the King had prorogued this Parliament, viz. the 10 of Januar, his Father in the year 1642-3 deserted his city of London, and the Parliament then sitting at Westminster, which was the beginning of all his troubles, for he never entered London after that till he was brought prisoner ther; tho ther be little fatality in observing dayes, yet the giving rise to such odious parallels may be shunned.

The King, during the prorogue, not being able to please them, on the 18 of Januar he brook of capitulation with them, and by his proclamation, intimated throw London by sound of trumpet, he dissolved the Parliament. It bears, he was resolved to meet his people in frequent Parliaments, and therfor he promises under his great seall to issue furth writs for calling another to meet on the 21 of March next at Oxford. The changinge the place was a check to the factious and tumultuary humor of the Londoners; yet it made them remember that the King's father, as a counterpoize to the long Parliament, which sat at London, he, in Januar 1643-4, called a Parliament at the same city of Oxford, but without any prosperous successe. However the abatement of profit in removeall of the Parliament, made fundry of the Londoners relent somewhat in ther heat against the Court party, and willing to faune and doe mean things if the Parliament might be brought again to them. See Baker's and other English Chronicles, and the book called the Civill Wars of Brittain, chapter 37, page 64, and cap. 52, page 100.

Monmouth, Shaftsburie, and ij others, made ane addresse to the King, requesting the new Parliament might meet at London, representing the Parliaments held at Oxford by the King's father, and others the Kings of England, had always been unfortunat, and that the members of Parliament would not think themselves secure except in London. See this paper, and the answer of it, besyde me. King Charles the I. had also in

the year 1625 and [1644] a Parliament at Oxford, but he found the members no more tractable their then at London. Some boasted and others feared the House of Commons should not have obeyed the King's dissolution so peaceably as they did; but whatever violence they shew when met in a parliamentary capacity, they are more warie and circumspect and slow in ther hot proceedings then Scotsmen are when once awakened; and are not so suddenly blowen up with groundlesse fears and causeles jealousies of poperie and arbitrarie government. Vide infra, page 16, anent the Oxford Parliament.

11 Januarij 1680-1. The mansion house of Preistfeild, besyde Edenbrough, belonging to S. James Dick provest of Edinburgh, was in this evening, about 7 or 8 a cloak, brunt, whither by casuall accident and negligence, or designedly by praecogitat malice, could not weill be determined. The Provest had frequentlie said, he would take doune his house and rebuild it. Some jealousied the scooll boyes at the Colledge, because he had imprisoned some of them for ther frolique of burning the Pope, (de quo supra, folio praecedente,) and some of them had threatened to pull doune his house. Others thought this suspition not weel grounded, nather the malice, wit, conduct, nor contrivance of lads amounting to fyre raising. See the Councell's proclamation anent it. Of the praesumption *Minarum praecedentium et damni secuti*, see the criminal lawyers, requiring they be *malae famae*, and such *qui minas exequi soliti sunt*; and the forsaied praesumption of *damnum minas subsequens*, takes mainly place in malefices committed by witches. Some said the Privy Councell, in ther tryall, ware not so exact as they should have been, for the scrutiny that would best have expiscated the manner, was to have examined the Provest, his Ladie, ther servants and tennents, wheir the keyes, when ther was fyre last put on, and who was most lately their, &c.: which was not done; but a number of school boyes called, who declared they knew nothing of it till it was brunt. Yet the Privy Councell thought fit, by a proclamation

in print, to shut up the Colledge of Edinburgh, and banish the boys 15 miles, unlesse ther parents found caution for ther good behavior; which made some cry out, Shall the succceeding generation be starved of good learning, because in a Protestant countrie the children in mockerie brant the Pope? Others added, that Julian the Apostat thought it the most effectual method to suppress Christianity to shut up ther schools. (See Hermanus Latherg. de Censu, libro 1^o. cap. 1, pag. 150 et seqq.; item libro 3, cap. 19, pag. 967, et sequentibus; Joannes Casus de Sphæra Civitatis, seu Republica, libro 5, cap. 11, pag. 375.) It was surmised, this interdict put upon the Colledge was in part designed by the Bishop of Edinburgh to get out Mr. A. Cant from being Primar, and to get in Mr. Robert Paterson, his brother, unto that place. Some asked, If the Councells interdict could be justified to shut up a colledge erected by a king, with priviledges, and 100 years in possession theirow, and ratified in severall Parliaments, and wheirow the towne of Edinburgh ware patrons, without ther consent, on small and frivolous jealousies and suspicions. Theirafter, the Colledge was again opened with conditions; which see alibi, in the manuscript marked E, at the first of Februar 1681, pag. 182.

- P. 13. 26 Januarij 1681. Ther ware hanged at Edinburgh 2 weemen of ordinarie rank, for ther uttering treasonable words, and other principles and opinions contrare to all our government; the one was called Janet Alifon, a Perth woman, the other Harvy, from Borrowstownesse; they ware of Cameron's faction, bigot and sworne ennemies to the King and the Bishops; of the same stamp with Rathillet, Skeen, Stewart, and Potter; of whom, supra page 4, et seq., wher we debate how far men (for weemen are scarce to be honored with that martyrdome, as they think it) are to be punished capitally for ther bare perverse judgement without acting. Some thought, the threatning to droun them privatly in the North Loch, without giving them the credit of a publick suffering, would have more effectually reclaimed them nor any arguments which

ware used; and the bringing them to a scaffold but diffeminats the infection. However, thir weemen proved verie obstinat, and for all the pains taken would not once acknowledge the King to be ther lawfull prince, but called him a perjured bloody man. At the stage, they told, so long as they followed and heard the curats, they ware swearers, sabbath-breakers, and with much averfion red the Scriptures, but found much joy upon hir spirit since thee followed the conventicle preachers. Ther ware 5 other miserable weemen executed with them for infant murder. See my folio law manuscript, 17 and 18 Januarij 1681, page 180. See with what wonderfull patience most execrable hæreticks suffer, in Baker's Cronicle, in the reign of K. Henry the 2d page 58, and of Henry the 3d page 89.

23 and 25 Januarij 1681. Alexander Hamilton and Trotter of Morton-hall, questioned at Privy Councell for expreffions seeming to reflect on the governement. See my folio law manuscript farther at the saids dayes, page 181. Vide supra, page 5, Siquis imperatori maledixerit, &c.

About this tyme, we heard the Earle of Eglington had killed the postmaster of Doncaster, in England, in the postmaster's oune house, being transported with drink and passion at some slight provocation given him by the said postmaster. His unckle the Duke of Rothes did intercede with the King for a remission to him.

This year 1681, the 30 of Januar falling on a Sunday, the commemoration of the King's father's murder was deferred till the next day. See my 8vo. manuscript of Session occurrents, page 45 et sequente.

3 Februarij 1681. The Duke of York parted about 7 a'clock in the morning from the Abbey to goe for Stirling to see the Castle and the strong passes on the river of Forth; and in regard of the preparations the Earles of Argile, Mar, and Lithgow had made for him, and not to disappoint them, he was not interrupted from going by a great storme of snow, had fallen 2 dayes before, in greater quantities then ever I had observed in so short a space, tho the storme in the winter 1674 lasted longer. He

stayed not long, for he returned on the 5th of Februar in the afternoon. See the accompt of this progresse in print.

- P. 14. Upon dissolving of the English Parliament, severall of the councillors left the Councill board, and the King put the Earle of Sunderland from his place as principall Secretarie of State; and, on the 2d of Februar 1681, installed the Earle of Convay therein. Sunderland had been on of them who, in the last Parliament, had appeared against the Duke of York; but thereafter Sunderland, in 1683, made his peace; and on Conways dimission he was again reponed to be Secretary, by the Dutcheffe of Portsmouth's power with the King, somewhat against York's will.

In Februar 1681, Generall Dalzeel executed much severity against on of his poor soulders for stealing a pair of pistols out of the magazine; he caused shoot him to death. Another, being sentinel at on of the gates of the Abbey, was found lying sleeping when the Duke of York passed, Dalzeel caused sentence him in a court martial to be shot; and for that purpose he was carried to Leith Links, and when all was ready, the Duke of York interceded for his life, and obtained it. Some exclaimed on this Muscovian rigour as too severe in tyme of peace, and that the rigour of discipline was not absolutely necessarie, save tempore belli, or in a garrison and beleiged toun; others called them wholesome examples to repress the naturall insolency and luxuriancy of fogers. See Voet. de Jure Militari.

On the 21 of Februar 1681, ther ware brought in from Borrowstounness a company of distracted men and women (for I know not what other name to give them); they called themselves the only true faints, declared for Cargil's covenant, had a napkin dipt in the blood of Stewart and Potter, who ware hanged and headed on the 1 of December last, (*supra* page 4,) and weaved it in ther prayers before the Lord, crying for vengeance on the murderers; and in this furious posture, worse than quakers and enthusiasts, run up and doune that toun, disowned the King and all government, and followed a failer named Gib, who had now assumed the name of

King Soloman, (for they, instead of their former names, take names out of the Old Testament, as Abram, &c.): [And such as have] husbands, not of their own opinion, they are so far from conversing with them that they will not suffer them to touch them, and if any do, they wash the place as having contracted impurity, like the Jewish ceremonially uncleanse, with 100 such fopperies. See the following page.

In the end of Februar 1681, we heard that of 4 Lyons in the tower 3 of them dyed, and the Lyon remaining was that which was designed the Duke of York's Lyon, whereon every one made their observe. As to the age of Lyons, see Plinius' Natural Historie, lib. cap. . Some of the pamphlets printed against the Duke of Monmouth, in mockery desired him to go and give a demonstration of the legitimacy of this birth, by approaching the Lyons in the tower, who certainly would lick the hand of a prince of the blood royal, and would stoop to one who had the Lyon on his side from his birth, and offer no violence. And why might not he try this experiment as well as his sister, Madam Fanshawe, [who] had cured one of the King's evils, by touching and using the words which his Majesty does.

ij Martij 1681. There were 3 persons hanged at the Grassmarket of P. 15. Edinburgh, for disowning the King's authority, and adhering to Cargil's covenant, declaration, and excommunication, and thinking it lawful to kill the King and his Judges. See the preceding page against these from Borrowstouness. Their names were Gogar, Millar, and Sangster; if they would but have acknowledged his Majesty, they would have been pardoned; yea, when they were upon the scaffold, the Earle of Roscommon, by a privy warrant from the Duke of York, came and offered them their lives, if they would but say, God save the King; but they refused to do it, tho Daniel wishes Nebuchadnezzar and Darius, heathen kings, to live for ever. See the chapter of the book of Baruch, v. ij. where the Jews in their captivity pray for the peace and prosperity of the kings of Babylon; and it is undoubtedly every Christian's duty to pray for all Kings, 1

Timothy, 2 chapter, v. 1 and 2. To refuse the pardoning ther enemies was to dy in much malice and unmortified rankor, as appears by Gogar's printed speach. Yet some thought it sad to dispatch men away to the other world in such a spirituall madnesse and religious melancholy, who rushed upon death and ware wain of suffering, and from whose boldnesse in dying (as if it had come from the immediate divine assistance) other simple peeples, as Hydra's head, and Cadmus teeth sown, ware profelyted, at leift ware hardened and confirmed in ther error; and that it would have been better to have kept them in bonds as madmen, or to have employed physicians to use ther skill upon them as on hypocondriack perfoncs. Nam furiosus homicida non est morte plectendus satis enim ipso furore mulctatur, c. 14. D. de officio præfidis. About 8 dayes before this, they had stollen away 2 of the heads, which stood on the West Port of Edinburgh, viz.: Stewart's and Potter's; the criminal Lords, to supply that want, ordained 2 of thir criminall's heads to be struck off and to be affixed in ther place. Ther was a 4th condemned with them for these same principles, called Murray, but he was prevailed on to give in a petition to the Privy Councell disowning the doctrine of killing Kings, or rising in armes against them, (only he qualified it with this exception, unlesse it was in selfe defence,) and acknowledged the King supreamc in all civill matters, but not in ecclesiasticks, which, tho contrare to law, yet so far prevailed as to obtaine a reprivall to him of his life. Vide infra, more of thir people, page 25.

Against defending the true religion with armes, see ane excellent citation from Lactantius, libro 5 Divinarum Institut., de Justiciâ, cap. 20; adduced by Camerarius, tomo 1 Meditationum Historicarum, cap. 40, pa. 179. See anent this more alibi, from Tertullian, Grotius, &c. in a 4to manuscript, marked A 1. page 91. As to the praying for usurping powers, see Gee's right of Magistracy, who thinks it unlawful, and answers thir texts, page 304 and 334.

13 Martij 1681. Dyed suddenly at Edinburgh, Dr. Archbald Turner, on of the minifters ther, a man of a ready wit and good parts. He was buried, at his oun defire, under the elder's defk, in his oun parifh church, called the Old Kirk, (which fome thought fuperftitious), and his comerad, Mr. John Robertfon preached his funeral fermon. The Toune Councell advanced Mr. Alexander Ramfay, on of ther 2d minifters, unto his place; and in roume of Mr. Ramfay they called back to officiāt as 2d minifter in the Greyfriars Church, Mr. Alexander Malcolme, minifter at Newbottle, who had been once a minifter of Edinburgh before.

Supra page 12, we fee the King calls a new Parliament to meet at P. 16. Oxford the 21 of March; accordingly they convene that day, moft of the elections and members being the fame who ferved in former Parliaments; the wholle number of the houfe, (as I faw by the lift,) being 513, and of which ther ware 404–405 that ware members of the former, and re-elected of new, fo that ther ware 108–9 changed, and even few of thir ware on the Court's fyde. See the King's fpeech to them, apud me, in print; it is fpoken in a very free dialect. The Houfe of Commons re-ele& the fame perfone to be ther fpeaker, who was ther mouth in the former Parliament, viz. Mr. William Williams, (vide fup. page 2,) who told the King in his fpeech to him, that the Commons of England, to give a demonstration they ware not for changes, had re-elected him for ther Speaker, which was ambiguous, (like the canons of the fynod of Trent, made to pleafe both parties,) ather to anfwer the King's defire, that no change be made in the laws of Church and State, or to tell they mind not to change ther principles nor a&ings they had in the laft Parliament which fate at Weftminfter. The King all alongft, in his fpeech, never calls it the Proteftant religion, but the religion in generall in oppofition to Poperie, which he mentions as alfo the configning the government in Proteftant hands in caufe of a Popifh fucceffor. After the praeliminaries ware over, they fall to examine why the Bill refchinding the firft A& made in the 35 year of Q. Elizabeth againft

Protestant dissenters (which in the last Parliament was passed both the Houses) was not, before the prorogation and dissolution, presented to his Majesty, that it might have obtained the royall assent; yet, in fine of that act it appears to be only temporarie and expired, and acts reviving it since are of the same nature. It was ane Act taking of the edge of the pœnal statutes against non-conformists, being a comprehension and toleration to Presbyterians, Independents, and Anabaptists, (and some say to Quakers, Arminians, Socinians, &c.,) but excluded all Papists, and intended to banish the principall Papists, under which generality the D. of Y. would also fall. It is observable, almost none of the English nobility (even of the King's party), and few of their gentry, came to visit the D. of York during his abode in Scotland, for fear of offending the other faction; only it was reported, Roger L'Estrange, the licencer of the presse, was heir with the Duke incognito; but on Shaftsburie's imprisonment, fundrie then came to see the Duke, as Sir Joseph Williamson, &c.

Advertisement was also given to the Members of Parliament, and their attendants, to take heed to their pockets, for it was designed to drop treasonable papers in them at Oxford, that thereupon they might ground false accusations against them. It was made out by probation against Gaven, the Jesuit, who had suffered for the plot about 2 years ago, that tho he dyed obtesting his innocence, (see the Animadversions on the Viscount Stafford's speech on the scaffold, in my 4to manuscript, marked A 3, page 22,) yet he had affirmed to a gentlewoman, the Quean might lawfully kill the King, because he had disloyally abused her bed with adultery.

The Commons sent up ane impeachment to the Lords of Edward Fitzharris, as guilty of the Popish plot of murdering the King; the Peers, by plurality, rejected it, because, before their doune fitting, he was standing already indyted before the Lord Chief Justice. Monmouth, and 18 other Lords, gave in a protestation, in writ, subscribed by them, showing this was Denegare justiciam Populo Anglicano. The house referred them to

prosecute him at the common courts of justice, wher his accusation was already depending. I have seen his deposition and narrative in print, taken before Clayton and Treby; wheirin he confirms T. Oat's discovery of the design of introducing Popery and arbitrary power into England, and killing his Majesty as the readiest means for it; and that the Marquis de Montecuculi, the Duke of Modena's embassador, offered him 10,000^{lb}. sterling to kill the King; and he declining it, the Marquis told him, that the Dutcheffe Mazarini understood the art of poisoning, and it was easy to dispatch the King by a powder, when he should come to see her; and that the Duke of Y. knew of this designe; and that a Priest told him he was one of them who had murdered Sir Edmondbury Godfrey, and which was consulted at Windfor, &c.

In this Parliament, a motion was made in the Commons' house, by the King's party, as an expedient instead of the bill of seclusion of the D. of York, that in case of a Popish successor, (who should retain the title of King,) the next heir of the crown, being Protestant, should be Regent of the realme, and administrat till religion war fully secured. This motion was hudibrazed by the country partie; for what if the Regent were a child, then the regent behooved to have a Protector also. And when the King's late army was up, the most part of all the officers were Popish, as those whom his Majesty trusted most.

In regard the King, in his speech, had reflected on the last House of Commons, this House were intending to passe a vote vindicating, approving, and justifieng all that the last had done. This, and the want of hopes and expectation of any supplie or other good from this Parliament, moved his Majesty, on the 28 of March, that same day 8 dayes they fate doune, to dissolve them, without mentioning the calling any new one; this being the third, since he had disbanded, at the Earle of Danbie's desire, (which did not secure him ather), the Long Parliament, which, though become trouble- P. 17. some, yet was far more for his Majesties interest than any that have suc-

ceeded it, every on being worfe then the former Parliament which had præceeded them. This laſt Parliament was ſo unruly and ſhort, that it may be ſaid of it, as was ſaid of that Roman, “O vigilantem conſulem qui toto conſulatûs fui tempore ne ſomnum quidem oculis cæpit!” it had nather ver, nor æſtas, autumnus nor hyems in it; and becauſe this Parliament was ſoon diſſolved and melted away, it was in raillery called the Encho to Parliament.

ij Aprilis 1681. The King, in place of Sir William Scrogs, Lord Chief Juſtice of England, laid aſyde, he gave his commiſſion to Sir Francis Pemberton to ſucceed him in that office, and in rounne of Judge Dolben, on of the judges of that Court, on Sergeant Street was placed. It was thought thir new entrants had undertaken to condemne Fitzharris, which the former ware ſcrupulous to doe, (ſee the preceeding page, item infra, page 19), for fear of being quæſtioned in ſome ſubſequent Parliament. At the ſame time, the King publiſhed his manifeſto or declaration, containing the cauſes moving him to diſſolve the 2 laſt Parliaments; which ſee in print. Some think a prince at a loſſe when he is put to give ane accompt of his aſtions, or to apologize to his ſubjects. The Juſtices of peace of Midleſex, and the Grand jury of Briſtol, by ther printed addreſſes, gave his Majeſty thanks for this his declaration; and ſeverall others did the like, as the tounne and county of Southampton, Windſor, Dover, Norwich, Portſmouth, and many mo.

About the midle of 8 April, dyed [William] Fleming Earle of Wigton, at his houſe of Cambernald.

This ſpring, 1681, the contention grew very hot betuen his Holineſſe the Pope and the King of France, anent the regalities or Jura regalia. The Gallican church did never ſo implicitly and blindly allow the Papall uſurpations as the Spaniſh, and other churches, did. See the book called the Policie of the Clergie of France againſt the Proteſtants, page 59, 60, 63, &c. Craig, our countryman, (Feudorum, page 16 and ,) tells, the

French and Scots Kings would never quite the presentation of benefices to the Pope. The regalities the Pope at present quæstions the French King for; are his presenting young boyes, noblemen, and gentlemen, (who are not so much as in religious orders,) to prælacies, abbacies, &c. as commendators of the fruits contrare to the ecclesiastick canons, and his assuming the wholle fruits of the benefice during the vacancie. See D. Gilbert Burnet's book on this, called the Right of Princes in conferring ecclesiasticall benefices and lands, which hes a collection of many letters of the Pope, and others, passed on this subject of the regale; it's printed in 1681. This Pope being Jansenist, they joine with him, and the Jesuits, in opposition to him, fyde with the French King against the Pope, and the Sorbonists being Jansenists demurr to ratify the King's a&. The Bishop of Pamiers, Cerle, his grand vicar, and Arnauld, the Jansenist, and fundry others, joyned with the Pope against the French King, and refused to obey his orders. (See the note of the book called l'Esprit d'Arnaud, in my 4to manuscript, page .)

But the great "cardo controversiæ" and encroachment is, the French King hath erected ane Hospitall des Invalides, called l'Hospital de Sainte Lazare, and la Salle de Mars, the Hall of Mars, whither all souldiers, wounded and maimed, or passed 60 years, and so rendered unserviceable, doe retire, and ther are entertained most nobly, and want for nothing; this hath endeared all martiall spirits to him, being a waft encouragement for them to know of ane honorable retrait, when they are weary, and the best of France are not ashamed to lift themselves in it. For ther maintenance, the King hath not only doted great revenues of his oune, but also suppressed fundry convents and monasteries, and annexed ther patrimony and revenue to thesse his oune hospitals; of which the monks and Pope exceedingly complains that monasteries, confirmed by papall authority, should so summarly by the King alone be extinguished, and a new religious order erected, (for they are to be tyed to some such lyke rules as the Knights of Malta are) without

the Popes approbation and consent. He is now convening a generall assembly of his clergie, to assert that, sede vacante, he hath right to the fruits of the benefice and to present, and it's wished he may prove another Henry the 8th of England, who, though he retained Popery, yet shook of the Papal yoke of supremacy. (Vide in margine paginæ sequentis.) The French King also inclined to have the Masse and all ther religious offices and services done in the French tongue, and no more in Latin; and convoked a generall assembly of his clergy, to justify his proceedings with the Pope. See ther proceedings, and his edict in print, besyde me, declaring the King independent of the Pope in temporalls, and the generall councells being above a Pope, &c. Vide infra, more of this page 33 and 64 in fine.

- P. 18. Let not the Papists boast that the Protestant Presbyterian principles are not so loyall as theirs, and that they (though persecuted, and under the pressure of severe poenal laws, and restrained the liberty of their religion in Scotland, England, and Ireland) do not rise in arms against the King's authority, as they doe at Pentland, Bothwellbridge, &c. but submits to the government; for, 1mo, these foolish people that assume the name of Presbyterians, have unwarily drunk in these restless principles from the Jesuites and seminary priests, who have had a hand in all our troubles and blown the coall. 2do, The Papists have never been a whit more peaceable when touched in their copiehold: let us but examine ther carriage since the English Reformation. King Henry the 8th, abolishes the Pope's supremacy, suppresses monasteries and abbacies, and allows the use of the Bible in the English tongue; for thir small beginnings I find six severall rebellions and insurrections raised by the Papists and ther priests in the year 1536 & 1537; (see Baker's Cronicle at that year, and our countryman Mr. Gilbert Burnet's History of ther Reformation, that same year, first part, pag. 229 et seq.); and, forsooth, for preserving the King's person too. Ther was one of them very famous, called the Holy pilgrimage of grace, wher 40,000 Papists rose in the north, and ther priests went before them

with crucifixes, and banners with Christ's 5 wounds and a chalice ; and they were dissolved at Doncaster. Nather King Edward Sixt nor his sister Elizabeth ware secure of ther life by ther perpetuall plots and conspiracies ; and James miraculously escaped ther Gun powder treason ; and they ware the first broachers of the late rebellion against King Charles and main incendiaries, as Du Moulin has proven ; and that same spirit is yet working and fermenting our dissentions ; and shall the world be such fools as to beleive ther oune testimonie that they are peaceable and loyall to government, and though oppressed, will not rise up by armes, or stratagems to subvert or disquiet it. A Papist quâ Papist cannot be a faithfull subject, its absolutely impossible, it implyes a contradiction, for he ounes a foraine jurisdiction above his prince ; so that, if the Pope command on thing and the King another, he most obey the Pope, especially if his prince be once excommunicated for a hæretick, (of which see many things at large in other manuscripts besyde me ;) but thir retorfions, You are as guilty as I, leive no convictions behind them, nor make any trophees, and 2 blacks will never amount to a white. I find in Rushworth's Historicall Collections, anno 1640, page 1310, the discoverie of a popish plot against King Charles the I. and the Protestant religion, revealed by Sir William Boswell and Andreas ab Habernfeld, and Monsieur L'Estrange, in his annals of the History of England, shews the reality of the said plot. See him cited by Rushworth, ubi supra, 1326, and he tells, that the Reverend Du Moulin hath 20 years ago in print offered to make good that the Jesuites and Preists carried on the late war and consulted the death of the King, &c. and produces ther letters anent it, yet none of the Papists (so conscious are they of ther guilt) dare to this hower give him the defiance, and put him to verify his word. (See the book called the Policie of the Clergie of France against the Protestants, per totum.)

And does not Doctor Oats in his narrative, cap. tell their ware fundry Jesuites sent into Scotland in 1678, to preach to the people as

discontented presbyterian ministers in the fields, and to stir them up to rebellion; wherein they prevailed in May 1679, though, by God's blessing, they were dissipated. On of the great arguments used against the Yorkists by them who oppose the Duke of York's succession, is the hazard by it of overturning our religion; they call them to remember how the English Queen Mary deceived the Protestants with her false promises to the Suffolk gentry at her entry, and to carry their eyes to France, and observe how the French King presently, in 1681, abuses the Hugonots there, and apply that to themselves when the Duke shall be king; and yet they have the conference of Poissy, the edict of Nantes, and other clear laws in their favours, with long and immemorial possession as strong as any act of Parliament with us, yet all this is violated and broken to them.

In the Summer of 1681, the Protestants of France were most sadly persecuted and oppressed, (see their petition to their King,) their children were robbed from them to be bred Papists, themselves haled with ropes to hear mass, their university of Sedan taken from them and given to the Jesuits, and many 1000's of them fled the kingdom, but were not permitted to take their goods and fortunes with them; and all this without any provocation, but, 1mo, to counterbalance the English Popish Plot; 2do, to shew his impartiality, when he was differing with the Pope, (vide præced. in calce;) and our King, in September 1681, by a proclamation invited all the persecuted Protestants over to England with large privileges of denization, &c.

- P. 19. Supra, page 17, we spoke of Fitzharris' trial; for his council at law he choiced Mr. William Williams, late speaker to the 2 last Houses of Commons, Sir F. Winnington, &c. Their first defence they proponed for him was, that being accused in the name of the people of England by the House of Commons, the affair was so tabled before the Parliament, that no inferior judicatory in England could meddle with it. Answered, the House of Peers had rejected the Inditement, and referred it to the

judges, and the parliament was no more in being, and if a new one should not be called, there was no reason his villany should passe unpunished ; for it was alleged, by the King's party, that Fitzharris was only suborned and bribed by Shaftsbury, &c. to affirme the things contained in his narrative.

All the judges being met and demurred some tyme, at last they repelled and overruled the forsaide dilator, and found the plea not good, and sustained themselves as judges to his tryall, and ordained him to answer farther against the next terme. Thereafter, in May 1681, being adduced as a witnesse by Mr. Mitchell Godfrey, brother to Sir Edmonbury, who was murdered, he deponed that Monsieur De Puy told him, there was a consult held at Hampton Court, 14 dayes before Sir Edmonbury was killed, where the Queen, the Duke of York, and the Earl of Danby late treasurer, and on Father Beddingfield, resolved on Sir Edmonbury's murder, and that he heard Danby, coming downe the stairs, say he would send S. Edm. such an errand for his officious zeall as he should never returne with an answer, and should make all his heart ache. Then Shaftsbury craved that Fitzharris might have liberty to depone what he knew of the burning of the city of London by the Papists in 1666 ; which the judges declined on this ground, that it did not relate to S. Edm's. murder, which was the only point anent which he was adduced to declare.

The D. of York was very offended both at the delay of his tryall, and that on standing accused of by treason himselfe should be admitted to depone, *lite pendente*, against another ; and then it was made by Shaftsbury's party a defence (as having overreached the judges) that being now on of the King's evidences and witnesse he should be secured and indemnified, and not tryed for his owne life. Vide the next page.

About this tyme, in May 1681, Monsieur De Crow, Envoy to the King of Brittain from the Duke of Holstein, being ready to depart from London, was arrested by some merchants, and imprisoned for debt he was

owing them. Of this the Attorney-Generall made a complaint to the King's Privy Councell, as a breach and violation of the priviledges of embassadors and ministers of state, whose persons by the inviolable law of nations are sacred. The Councell sent for the creditors, and ordered them to retire their actions against him ; which they refusing to doe, the Councell committed them to Newgate prison and liberat him. It is an affront to the prince whom they represent that their envoyes should not pay the debts they contract.

In the end of May 1681, on Macwarth, Macgrath, ane Irish papist, deponed before the King's Privy Councell, that Sir Edmondbury Godfrey truly hanged himselfe, and that his brother, Mr. Mitchell Godfrey, employed him to cut him doune and convey him to the place wher he was found, both to lay it on the Papists, and to save the escheat of his goods, which would have fallen to the King, if his selfe murder had been known. But he had soe il contrived his perjurie, that immediatly a letter of his was seized on, wheirin he wrote to the midwife Coliers, that obstinate Papist, what he had deponed against Sir Edmondbury, and desiring hir to prepare the rest of the witnesses and have them in readines ; upon which suspicion, he was brought back to the Councell board again, and, after examination, he confessed all he had deponed was false, and he was suborned and brybed to it by Coliers, and other Papists, wheirupon he was committed. As also the Papists put a number of papers, containing treason, in a meal-tub, in a Presbyterian's house, to fix a plot on them. Their sham plots are made to discredit Oats' discovery.

- P. 20. On the 30 of May 1681, (because the 29, the King's birth-day, fell on Sunday,) the Magistrats of Edinburgh made a very solemne appearance on a theater at the Croffe, wher the Duke of York honored them with his presence, and drunk their Majesties' healths. See the printed narrative of it besyde me.

About this tyme, in the south of Scotland, about Melrosse, some three

unhappie miscreants were apprehended and brunt for bestiality committed with meirs; it was reported on of them followed after field conventicles; and they declared they did not think it was a fin, which was a great ignorance of the law of nature. It was strange, what the mother of on of them reported, that fix weeks before shee was delivered of him shee heard him as audibly weep in hir belly as any child cryes and greits after they are borne; which, as it was a singularity in nature, so he proved ane unnatural monfter.

About the 8 or 9 of June 1681, Fitzharris (de quo pagina præcedente) was again brought to his tryall, and his Majesties Attorney in particular, infisting against him as the author of a scandalous and treasonable pamphlet against his Majesty and his father and grandfather, incensing and stirring up England to raise in armes; and wheir, amongs other things, he charges King Charles the I, as he who gave order and commission for the Irish rebellion in 1641, and makes the present king a Papist; and probation being led against him, it was clearly made out that he had ouned that pamphlet, and that by Everard Smith and Sir Wm. Waller; wheiron the Jury unanimously returned him guilty, after that the Lord Cheiff Justice Pemberton had summed up the evidence to them in a pretty discourse. Then the Lord Howard of Escrike being pannelled for acceffion to the same libell, it not being evidenced, the juries verdict and returne was ignoramus, which is lesse then ane absolvitor. The title of this scandalous libell was "The True Englishman speaking Plain English." See Fitzharris' execution the next page: item pages 24 and 25, Colledge and Rouse.

On the 14th of June 1681, by his Majesties order a Parliament was proclaimed to meet in Scotland on the 28 of July next, the Duke of Albany being the King's Comissioner theirt. Sir Wm. Purves, the K's solicitor, was, by a mistake going to cause proclame it on the 13 of June, but, being a Monday it's absolutly dies ferialis, on which no proclamations can be made; it's nather a mercat day nor dies juridicus, wheiron

courts of justice fit, to occasion a confluence of people. Some thought the Duke was to assume the title of Prorex or Viceroy, as more august for his eminency then that of Commissioner; and they differ in their two, which sute not to a free kingdom as Scotland is, so that a Commissioner is tyed up to instructions, but a Viceroy hath no limitations at all. 2do, Viceroys are sent to debelled and conquered kingdomes, as to Naples, Ireland, &c., but never to independent crounes. Vide infra, page 22, anent the manner of riding the Parliament. See the paper printed by the Counsell; item my folio law manuscript marked E, at the 15 of July 1681, page 208.

It having pleased God, for our sins, to visit many of the Southerne shires of Scotland with a great drought this spring and summer, that scarce ther was any rain from March to neir the end of June, but cold winds and other unseasonable weather, so that the like had not been observed by the space of 40 years before, for no grasse rose but was more withered then it had been in the midst of winter with us, or scorched with ane Italian summer: and for the cornes, they ware in great hazard, so that a famine, at leist a dearth, and pestilential diseases ware feared to insue. All thir ware interpret as the effects of our late Comet, (of which supra page 8,) and certainly, it may drain the moisture from the earth, and influence the weather, and disorder the motions of the heavens; but ther is a higher

P. 21. hand of Providence above all these signes pointing out to us our luxury, abuse of plenty, and other crying sins. However, the Privy Councell, by ther A& dated the 16 of June 1681, (which see in print,) enjoyned ane universal fast throw the kingdome for deprecating God's wrath, and obtaining rain, to be held on the 29 of June in the nearer shires, and the 6 of July in the remoter; as also the fast is enjoyned to pray for the success of the subsequent Parliament. Some wished this Parliament might not make us or our posterity fast after it was done. But God thought fit to prevent our applications and addresses, and on the 24 of June and the following dayes sent plentifull showers, yet the fast was observed: In fe-

verall places the cornes ware so brunt at the root that the rain could doe them little or no good.

On the 27 of June 1681, on Mr. Alexr. (Robert) Forbes, a young man who had betaken himself to the ministrie, and preached frequently in Edinburgh, but could not get a church, from misery and want, in desperation, did attempt to cut his owne throat, but was interrupted ere he got that wicked action fully perfyted; and pains was taken upon the curing of him, and the wound was shewed up, tho he did tear it open with his hands, not being desirous to live, so violently did the Devill assault him with his temptations. See of Cromarties and the Lord Newbotle's selfe murder alibi. This unhappy young man, Mr. Forbes, dyed within 3 or 4 dayes after the wounds he gave himselfe, like Cato.

On the 1 of July 1681, Edward Fitzharris (de quo pagina antecedente) was hanged and drawen, and to his last breath asserted, he was threatned to say ther was such a Popish plot, as he in his narrative affirmed. And that same 1 day at Tyburne, was executed Mr. Oliver Plunket, the Pope's titular primate of Ireland and Archbishop of Armach, for his accession to that plot; it being proven against him, not by Protestants, but by Duffie Macmoyer and other Franciscan Friars of the Romish communion, that he intendit to bring ane army of 70,000 French and Spaniards to land at Carlingford in Ireland, and that he kepted correspondence with Baldeschi, the Pope's secretarie, and Principe Collonna to that effect: but see his printed speach wheirin he denyes all this, and sayes thesse monks ware tempted to swear falsely against him because he keiped a strict hand of discipline over them. At the same tyme, Turberville, the principal witness, on whose deposition Stafford (supra page 7) was condemned, came in to the Bishop of London on a remorse, and said, he had deponed falsely against that Vicount. And on the 2d of July, the Earle of Shaftsbury, by order from the King and his councill, was committed close prisoner to the Tower of London, (wher he had been once before in 1676, but not

for treason as now,) in regard some offered to make it appear he was guilty of hy treason; (vide infra pag. 27 and 28, anent Shaftsbury and Argile.) So we see God in his providence suffers things to run in some cloud and reverse, that men knows scarce whither to beleive ther was a Popish plot or not, as it was affirmed with all Titus Oats's circumstances; but he who sits in the heavens laughs at all ther designs and machinations, and whenever he thinks fit he will dash them in peices, and bring order out of confusion, and the truth to light. But sober Protestants turned very jealous that ther witneses ware only suborned to put out of the way any who appeared warmly against the introduction of Poperie.

- P. 22. On the 13 of July 1681, was apprehended Mr. Donald Cargil at Covington milne, beyde Lanerk, with 2 of his accomplices, on Smith and on Boog. This Cargil was a great feild preacher, and he who excommunicated the King at Torwood in September last, and stirred up many poor peeples against the governement. He was brought in to Edinburgh on the 15 of July, and examined before the King's counsell, and gave shifting answers, only he owned the lawfulness of defensive armes. Vide infra this same page.

On the 17 of July 1681, arrived from England at the road of Leith, Ladie Anne, the Duke of Albany and York's second daughter. The King's yaughts ware saluted with a full round of the canons upon the Castle of Edinburgh.

On the 26 of July 1681, at night, dyed, in his oune (the Chancellor's) lodgings, at the Abbey of Halirudhouse, John Lesly, Duke of Rothes, Lord Hy Chancellor of Scotland, and who swayd the greatest dignities a subject was capable of, having been the King's Commiffioner, Chancellor, Treasurer, Generalissimo of the forces, &c. He was a man of excellent indowments, though void of learning, and on who gave himselfe great liberties in all sorts of pleasure and debaucherie, and did by his bad example and instigation infect many of the young nobility and gentrie of the

age, which made him to dy the leſſe regrated with ferious and confidering perfons. When the jaundice and hydropſie firſt ſeized on him, he hoped to have notwithstanding præſided in the Parliament, but it pleaſed God to cut him of 2 dayes before its doune fitting. He was brought up to the Hy Church of Edenbrugh, and in great ſtate and ſplendour conveyed thence to the Abbey Church, and from that to Leith, on the 23 of Auguſt 1681, (whereof ſee the method beſyde me,) and the nixt day carried to Leſlie, and interred in his oune ſepulchre. Vide infra, Haddo, his ſucceſſor, page 35.

The ſame 26 July, Cargil and 4 of his diſciples, viz. Mr. Walter Smith, Mr. James Boog, on Cutle, and on Thomſon, ware tryed at the criminal court, and found guilty of treaſon and treaſonable principles; in diſfouning the King and his authoritie, for ouning the Sanquhar declaration and covenant, for being in rebellion and armes at Bothuelbridge, excommunicating the King at Torwood, calling the King a tyrant, diſfouning his ſupremacy, and refuſing to ſay God ſave him, though that would redeme ther life. They ware all 5 hanged at the marcat croſſe of Edinburgh, on the 27 of July, (which ſome thought but ane ill preparation to the Parliament to be ridden the nixt day.) They dyed all a great deall more ſtout and firme then ther leader Cargil, who behaved moſt timorouſly to ſave his life, (if it could have been converted to baniſhment,) and minched ther principles, and begged for a longer tyme, that he might be judged in Parliament; but finding ther was no remedy, he put on more ſtayedneſſe and reſolution after his ſentence.

On the 28 of July 1681, the Scots Parliament ſate doune, and was riden with great pomp and magnificence from the Abbay of Halyroodhouſe to the Parliament Houſe and back again: vide ſupra, page 20. Ther being nather Chancellor nor Treafaurer, the Marquis of Atholl, Privy Seall, as the nixt officer of ſtate, ſupplied the office of Preſident. The Parliament P. 23. was opened by a prayer, ſaid by the Biſhop of Edinburgh, and the rolls

being called, ther ware severall protestations made by the Earles of Sutherland, and others, for præcedency before all others, by the inferior officers of state, on against another, viz. the Advocat-Regifter, Justice-Clerk, and Treasaurer-Depute, by the Commissioners from the shires of Fyffe and Perth against them of Edinburgh shire, (for which cause, to preserve ther priviledges, thesse ryde alwayes some space alone before the rest of the Parliament ryde.) Then the King's letter was red, and the Duke had his speach; both which see alibi. During all this tyme, the Dutcheffe of York and other Ladies ware present. Then the articles ware chofen according to the act of Parliament in June 1663, and a committee named to try and report the controverted elections; and then the house adjourned, the members having all first taken the oaths of alledgeance and supremacy, and signed the declaration. Some expected a motion on the reading of the Duke of York's commission in the house, that it should have been objected against the Commissioner, that he was not capable of so hy a dignity, not being a Protestant, because by the act of Parliament in 1557, and the 5th act in 1609, a Papist is rendered incapable of being a member in any court; at leift, that he ought to sweare the alledgeance and supremacy, which no Papist without a dispensation could weel doe, the first renouncing the Pope's forrain jurisdiction, and the 2d declaring the King to be head of the Church: but none proposed this. Duke Hamilton craved a letter of thanks might be sent to his Majesty, which he was not so forward to in the Parliament 1673, (de quo plura alibi in a little manuscript in 8vo, anent the minuts and accurrents of this Parliament.) Exception was taken against his Royall Hynesse, that being now the commissioner and representative of a King, who ouned himselfe not onlie to be a Protestant but ther head, (see G. Burnet's 2d part of the History of the English Reformation, p. 101;) he should have absented himselfe from the Protestant service, and from hearing sermon in our churches, for in this character he is as the King, and to act in a sphere consonant to his principles, and not conforme

to his owne private Popish ones: juſt as when the King of England employes ane embaffador to France, or other forrain country (though the ambaffador be Popish,) yet he may not, under all hyeft pain, goe openlie and hear maffe, becauſe his maſter that ſent him would not doe it, and he moſt aſt nothing diſagreeable to his quality he ſuſtains. However, it was concluded, the Duke was more ingenuous in not coming, ſeing he would readily but incur the note of a hypocrite if he complied. Some thought, ſeing the Duke of York procraftinated the ſecuring of the Proteſtant religion, he might juſtly be challenged as not performing (beſydes his owne promiſes) of the inſtruſtions given him by the King, both in private and in his letter to the Parliament, offering his free aſſent to all laws they could deviſe for the ſecurity of the reformed religion. See of this the 4to manuſcript marked A, 5, pages 86, 87, et ſeq. The motion and propoſall made by George Dallas, as a farther ſecurity to the Proteſtant religion, did not want its owne due conſideration, and was generally yeelded to by the Parliament, viz. that the 1 aſt of the Parliament, held in 1662, reſtoring Biſhops, had, by inadvertency, reſchinded the 1 aſt of the Parliament held in 1592, in the wholle heads of it, becauſe a part of it condemned Epiſcopal governement, wheiras the reſt of it was on of the greateſt bulwarks and cleareſt laws we had againſt Poperie, but the 1 aſt of the Parliament in 1612 reſchinded it only in part; and therfor, he craved the ſaid aſt in 1592 might be revived in ſo far as it abolifhed Popery. See the 4to manuſcript marked P, folijs 43 and 47; item, my law folio manuſcript, marked E, in July, Auguſt, and September 1681, pages 208, 209, 210, et ſeq. (See that ſame manuſcript [4to MS. marked A, 5,] at great length, page 94, et ſequentibus multis uſque ad finem iſtius libri.)

On the 31 of Auguſt 1681, Steven Colledge, commonly called the Pro- P. 24. teſtant Joyner, was hanged, drawn, and quartered as a traytor at Oxford: The hiftorie of whoſſe tragædie was this; being apprehended, fix witneſſes, viz. Dugdale, Turberville, Haynes, Maſters, Prance, and Jennings deponed

againſt him that they heard him ſay, when the King was at Oxfoord in March laſt, during the fitting of the Parliament ther, it was intended and reſolved by the Houſe of Commons, and a part of the Lords, to ſeiſe upon the King and carry him priſoner to London, and keep him under captivity and reſtraint till ſuch tyme as he yeelded to the conceſſions and demands of the Earle of Shaftsbury, city of London, and other diſſenters throw England, who ware to have ane army of 50,000 men in readineſſe; and in caſe of the King's reſuſal they would ſend him the way his father went; and they ſwore it was as univerſall a plot as ever the Popiſh on was. Notwithſtanding this ſeemed to be a clear probation, yet the Middleſex Jurymen of London, ſuſpecting the integrity of the witneſſes, returned the verdi& ignoramus, as not being convinced theirby (vide p. ſeq. Rouſe's caſe, et ſupra, p. 20, Howard.) This ſo diſpleaſed the King, that he cauſed him to be transported to Oxford, ther to be tryed again by ane aſſiſe of that county; which was accordingly done, and he was by them found guilty of hy treaſon, and theiron condemned by the Lord Cheif Juſtice and others, which, as I have told, was execute upon him. At his death, he confeſſed he might ſome tymes have uttered indecent words of the King and his counſell, but atteſted his innocency of the expreſſions libelled, and charged the mercenary witneſſes with perjurie, and that they had deponed falſely, purged himſelfe of Poperie with which he was branded, and declared he dyed preſbyterian, and that he never ſaw the paſquil laid to his charge called "Raree choſſe," ["Rary Shew," a ballad,] till Dugdale ſhew it him, &c. Do&tor Oats appeared at his tryall to defend him, which being reſented as tending to diſparage the King's evidence and witneſſes, Oats was diſcharged the King's preſence and court, and his penſion and guards tane from him, and was threatned with ane accuſation of hy treaſon; but the King called for him, and forgave him, but with a reprimand that he might remember to be more thankfull.

On the 1 of October 1681, the King's trefurie and Exchequer did fet a tack of his wholle fettled revenue for 7 years to Bailzie Baird, Charles Murray, Robert Milne, and fundry others, who ware to pay of tack duety yearly for the fame 90,000lb. fterling, and advance 16,000lb. fterling, for the paying the army; the greateft improvement that ever hitherto was made of the King's rent, it never coming in on hand before, but ordinarily the tackfmen of the customes, and of the 40,000lb. fterling of excife ware different.

On the 3d of October 1681, the D. of Albany parted from the Abbey in the morning, and went to Glasgaw and Dumbarton; and being intertained by the Lord Roffe at the Halket, he returned back to Halirudhouffe on the 5th of October, in the afternoon.

At this tyme, Christendome was exceedingly allarumed with the French P. 25. King's fudden furprizall of 2 fuch important places of ftrengh as Cafale and Strafbourg, the firft being the key opening the door to all Lombardy and Italy, and the laft being the moft flourishing republick and confiderable paffe upon the river of Rhine, and ane inlet to the Empire; and which greived thoffe of the reformed religion moft was, that in Strafbourg, wher the Lutherans did not permit the publick exercife of the Popifh religion, he had brought back the Popifh bifhop, and given the Catholicks the Cathedral church for faying Maffe in. See Heylin's Cofmographie, defcribing Cafale in Mantua, and Montferrat and Strafbourg in Alfatia, pages Item d'Avitie's World, tome , page

On the 10 of October 1681, ther ware 5 poor fellows hanged, befylde Edinburgh, for difounning his Majesty and affirming he was a tyrant. See the accoumpt of it in my law manufcript, marked with the letter E, pages 222 and fequente. Vide fupra, page 15.

On the 14 of October, was the Duke of York's birth-day kepted at Edinburgh with more folemnities and mo bonfires then the King's ufes to be; fo prone are flatterers to adore the rifing fun, and any but too good a

prince would be displeased, and take ombrage at such reception given to his successor in his own lifetime. In the beginning of October, this same year, was the Dutchess of York's birth-day observed by our Court at the Abbey.

On the 17 of October 1681, Mr. John Rouse was pannelled (see him hanged, *infra* page 52,) for treasonable words against the King, before the Sessions at the Old Baily in London. There were 6 or seven witnesses who deposed against him that or the like expressions, That the King had forfeited his right to the crown by his tyranny and breaking his coronation oath, and that the Parliament would pull him down and serve him as the fool his father, &c.; yet the Grand Jury of Middlesex returned this bill Ignoramus, alledging they had satisfied their own consciences in so doing, and that they did not believe the witnesses, but thought them suborned, and that they prævaricated as they did formerly in Colledge's case, (*supra* pagina precedente,) yet the King found another jury at Oxford who condemned Colledge. See the printed account of Rouse, whose principles are the same with our Cameronians and Cargillians, only with us they publicly own them, and in England they disseminate them clandestinely, and will not abide at them when they are questioned for them. The King is much troubled at their grand juries, as being no friends to him; nor are they to the Papists, against whom they admit half a probation as sufficient, but reject the clearer evidences against Protestants. There is an act, anno 3^{to} Regis Henrici 8^{vi}. statute 12, allowing the justices to reform the pannel or jury returned by the Shireff, where they find them to be suspect persons, against whom exceptions may be justly made as disaffected to the King's government; and de facto, there were 2 of Rouse's jury removed, because frequenters of conventicles, till they purged themselves upon oath.

P. 26. On the 1 of November 1681, there was a new commission for the Lords of the Session, where President Stairs, Glendoick, Clerk-Register, Newbyth,

and Argill were left out, and Haddo, Tarbet, Boyne, Drumcaine, and Queanberry put in ther roume. Then the oath of the Test was taken by the Lords, and many of the Advocats and Wryters : but see a full and perfit accompt of this great revolution and tranſaction, and of the progreſſe of the Test, in my 8vo manuſcript of Seſſion occurrents, from page 47 of it till page .

In the beginning of this month of November 1681, dyed [William] Douglas Earle of Morton.

About this tyme, ane extraordinary diſcovery happened at London, ſome of the Irish witneſſes, John Arthur, Owen Callaghan, Mortach Dounie, and others, mentioned ſupra pages 24 and 25, drinking at a taverne, began a health to the confuſion of all ſuch as reſuſe to depone for money : then fell a quarrelling, why on had gotten more for ſwearing againſt Fitzharris, Colledge, Rouſe, and Shaftſburie, then others, they alledging they deſerved it as weel ; which being overheard, they were ſeized on, and being examined at Privy Counſell, they confeſſed they were bribed to depone falſely ; wherupon all the puniſhment inflicted was, they were ſent with a guard to Ireland, which was no ſatiffaction to the publick juſtice of the nation againſt ſuch pernicious rogues.

15 Novembris 1681, being the Quean of Brittain's birth-day, it was kept by our Court at Halirudhouſe with great ſolemnitie, ſuch as bon-fyres, ſhooting of canons, and the acting a comedy, called Mithridates King of Pontus, before ther Royall Hyneſſes, &c., wheirin Ladie Anne, the Duke's daughter, and the Ladies of Honor were the onlie actors. Not only the canonists, both Proteſtant and Popiſh, but the very Heathen Roman lawyers, declared all ſcenicks and ſtage players infamous, and will ſcarce admit them to the ſacrament of the Lord's Supper. See more of this alibi, from Durham's præface to the 10 Commands ; item Spencer's Similies, or Things new and old, page 292, from Tertullian, &c.

About the ſame midle of November 1681, the ſchollars of Weſtminſter,

in derision of the Presbyterians of the City of London, truck't up a fellow of palboard, whom they termed Jack Presbyter, with a scroll of parchment on his right hand, and Vox Patriæ written on it, which is the name of a seditious pamphlet; and another on his left arme with this inscription, The Solemne League and Covenant; and on his brow a paper with this word, Ignoramus, because they will find no bill relevant against the Presbyterians, though they were never so guilty. In revenge of this mockerie, the city apprentices brunt a new image of the Pope, in great solemnity and procession, as our Colledge boyes did in December last, *supra* pages 8 and 9. Vide *infra* page 28.

- P. 27. *Supra* page 21, we saw the Earle of Shaftsburie imprisoned, now, in November 1681, he is brought to his tryall before a grand jurie within London; before whom Turberville, Haynes, Smith, Macnamara, and other witnesses, deponed, that Shaftsberrie had bribed and corrupted witnesses to depone falsely in the Popish plot; that they had found a bond and association in his cabinet for defence of the King and the Protestant religion (as it boor in the narrative) by which all who entred into it ware to swear ane oath or test to this purpose, That they should obey all the orders and edicts to be made by the managers of the said association, and in case any should attempt to introduce Popery, whosoever they ware, (which generality except none,) they should resist and oppose them by open force to the utmost of ther power. Though this seemed a very strong probation, yet the grand jurie being suspicious and unconvinced of the truth of quhat was deposed, and suspecting that paper might be maliciouslie dropped and put in Shaftsburie's chamber, they returned the bill Ignoramus. Wheirupon, on the 29 of November 1681, Shaftsberrie, Lord Howard of Escrick, Wilton, &c., ware by a Habeas Corpus set at liberty upon £3000 Sterling bayl or caution; but tho' the Duke of Monmouth, and other noblemen, ware ther and offered themselves, yet they ware refused, because they might afterwards, as his peers, come to be his judges. Since his libera-

tion, Shaftberrie is pershewing on Grame and others on the statute of Scandalum Magnatum: see Shaftsburies printed tryall and the bond of association, with animadversions thereon. See the protestation and oath made by the House of Commons in England in May 1641, in substance very like this association; its in Baker's Chronicle, page 528.

In November 1681, there was an attempt made by some French soldiers, at the Hague, to seize on the person of the Prince of Orange while he was hunting beside Sceveling, and take him prisoner, and carry him away in a boat to France. But it was discovered, and sundry of them who were upon the plot were apprehended and sentenced to die; but the Prince pardoned them, which so displeased the people that they threatened to pull down the French Ambassador's house.

In November 1682, many ministers in Scotland desert their churches because they, though Episcopall and conformists, yet had no freedom to swear the Test: Some relented, and on their repentance were readmitted again to their kirks.

On the 12 and 13 of December 1681, was Archbald Earle of Argyle brought to his tryall upon the indytmment of treason; where I was one of his advocates who appeared for him, and was afterwards quarrelled for signing with Sir G. Lockhart and the rest an opinion that we thought the ditty not relevant to infer these crimes against him. The criminal justiciars, notwithstanding the defences, and the explanation given in by the Earle to contain the crimes libelled, whereupon probation being led, and the same remitted to the knowledge of an assise, they by their verdict returned him Guilty of treason, levying making, depraving the laws, assuming the legislative power, &c. whereof accompt is given to the King; and the Earle made his escape out of the Castle of Edinburgh on the 20 of December at night; and on the 23 of December thereafter the sentence of death, for faulting, tainting of blood, &c. was pronounced against him with the usual formalities of trumpets, riving his arms, &c. See all

this at more lenth, in the folio law manuscript marked E, at the 12, 13, 20, and 23 Decembris 1681, page 233. This is a strange reverse of
P. 28. providence: Argyle, a great courtier in July last, and carries the croun before the Duke before the Riding of the Parliament, and now condemned of treason and forfaulted, and overrun by the violent malice of his enemies, and which many thought was the more readily given way too that he appeared to be a valiant assertor of the Protestant interest in the Parliament; so true is that of Seneca Tragicus in Thyeste, *Quem dies vidit veniens superbum, Hunc dies vidit fugiens jacentem: Nemo confidat nimium secundis*. For though the Duke of York allows us to continue Protestants, yet whoever appears zealously for it are suspected as factious, as if under that pretence they were republicans, and aimed at a change of the government. But what created pitty to Argile (though formerly hated enough for oppressing his creditors, and nather paying his owne nor his father's debts) was this apprehension that he suffered for being Protestant; and that they tossed him, and made up a fictitious cryme of treason against him from a slender paper used by him for salving his conscience at the swearing of the Test, which was more capable and susceptible of a good sense, then of that strained metaphysicall gloss imposed on it, and wheirin all the world, who red it disinterestedly, could find no such cryme; so that the reflection Seneca hes upon Piso's cruall severity to his souldiers, (*libro primo de Irâ, cap. 16, sen. ult.*) is very applicable heir, *Excogitaverunt quemadmodum tria crimina facerent quia nullum crimen invenerant*. And some thought it no policy in His Royall Hyneffe to notice that Explanation; it would have broken Argile's credit and reputation with the Presbyterian faction totally, but the persecuting him on that head buoyed up his credit with them again, so as to turne ther Crucifiges unto Hofannas. However, let us admire and adore the providence of God, who from such small rises brings about his owne mysterious decrees, the meaning whereof we cannot farder understand, than that true honesty will at the long

run prove the best policy, though it may be oppressed for a tyme by the corruption or timorousnesse of judges, wher justice is thus prostituted and overawed, the nation is in a heftick decay; for Argile may say to us all *Hodie mihi, cras tibi*. Let us duely consider the voice of thir rods crying to Scotland, and the meaning of God who sends them. Vide supra, page 21, anent Shaftsburie. If thir captious methods be once brought in practise, ther is no action so innocent but it may be made a snare to entrap the unwarie therein, though they meant never so weell. (See the theologicke 4to manuscript, marked A 5, page 86 theirow; see the copie of his indytment, &c. in the 4to manuscript, marked P, folio 67 et sequentibus; item the octavo manuscript of Session occurrences, page 65.) Of Argile's case, they say, the Earle of Hallifax had this expresseion to the King, that he knew not the Scots law, but by the law of England that Explanation could not hang his dog.

We see, supra pages 8 & 9, a great stir made for the Colleginers burning the Pope at Chriftnas 1680; this year the boyes and prentices forboor ther solemnity on Zuille day, because it happened to be a Sunday, but they had it on the 26 of December at night. Ther preparations ware so quiet that none suspected it this year; they brought him to the Croce, and fixed his chair in that place wher the gallows stands, he was trucked up in a red gounne and a mitar with 2 keyes over his arme, a crucifix in on hand and the oath of the Test in the other, then they put fyre to him, and it brunt lenthly till it came to the poudre at which he blew up in the air, (vide supra, page 26.) While they ware at this employment ther ware lightnings and claps of thunder, which is very unusuall at that season of the year. At this tyme many things were done in mockerie of the Test: on I shall tell. The children of Heriots Hospitall finding that the dog which keiped the yairds of that Hospitall had a publick charge and office, they ordained him to take the Test, and offered him the paper, but he, loving a bone P. 29. rather than it, absolutely refused it; then they rubbed it over with butter,

(which they called ane Explication of the Teft in imitation of Argile,) and he licked of the butter but did fpite out the paper, for which they held a jurie on him, and in derifion of the fentence againft Argile, they found the dog guilty of treason, and actually hanged him.

About this tyme dyed Generall David Leffie, Lord Newark, very fuddenly ; fee it the next page.

ANNUS 1682.

IN Januar and Februar 1682, a famous controverſie was moved by his P. 29. Majeſties Attorney againſt the citie of London, craving, by a writ called Quo Warranto, they might produce ther charters (Magna Chartas) of erection, and other evidents containing ther priviledges, immunities, and franchiſes, before the judges at Weſtminſter, to be caſſed, annulled, and declared void and loſt, and forfaulted to his Majeſty, in reſpect they contained ſeveral irritant conditions and qualityes, ſuch as preſerving the peace of the city againſt unlawfull conventions and meetings, which they had contraveened by their convocating, and ther Common Counſel's preſenting a bill to the King intreating him to call a Parliament, and by permitting conventicles to diſſenters from the eſtabliſht governement of the Church of England. (See ſome of ther charters in the ſtatutes and acts of Parliament of England, page .) But the main thing the King aimed at was to deprive them of ther power and juřiſdiction of ſhireſſhip, (ſhrivaltie,) within the county of Middleſex, alledging they had no right theiſto; and yet, by vertue theiſof, they called and impannelled all the Grand Juries which ſerved for that county, and ordinarily they choiſed perſons diſſaffected to his Majeſties governement, who aſſoılzied any whom the King inclined to have puniſhed, as Shaftſbury and others; (de quibus ſupra.) But the Biſchops have fallen on another method to incapacitat ſuch, by excommunicating them for not attending divine ſervice according to the forme of the Engliſh Church, and then getting letters for rejecting them from being on juries, or having *perſonam ſtandi in judicio*.

The King delt with the City, to see if they would submit to him, or redeem ther liberties, and remove on Alderman Pilkinton, a factious person. But the city resented ther priviledges ware drawn in question before any lesse judicatory then the Parliament, and stood on ther defence, and employed the best counsell in England, and named a committee for managing it, and empowered them to call for what money they pleased furth of the Chamber of London, for prosecuting their of; so that his Majesty, fearing the event or disturbance might follow their upon, he delayed the affair till Trinity terme in April. (Vide infra more p. 36 and 49.)

12 Januarij 1682. About some 30 or 40 persons of Camerons faction came incognito to the toun of Lanrick, and ther, at the Mercat Croce, publicly brunt the late A& of Parliament anent the test, and emitted a Proclamation against the King, calling him a tyrant; wheirof see the copie besyde me. The Privy Counsell, in retribution, caused the Solemne League and Covenant, with the said Presbyterian declaration, and Cargill's Covenant, (which, about a year ago, they allowed to be printed, thinking it so grosely absurd, as none could be seduced by it) to be publicly brunt by the hand of the hangman (the magistrates being in ther robes) at the Croffe of Edinburgh. Some thought it but a sorry politique to burne the
P. 30. Solemne League, to revive the memory of what was long ago buried in oblivion. The Secret Counsell also fyned the inhabitants of the toun of Lanrick in 6000 merks.

13 Januarij 1682. Alexander Cockburne (Cowban), hangman of Edinburgh, killed on John Adamson, alias M'Keinzie, a blew-goun beggar, in the hangmans ounge house, and under night laid him at his door. The magistrates of Edinburgh judged him within three suns as Shirefs within themselves. The probation resulted upon strong presumptions against him of his guilt, as his denying that the beggar was in his house that day, the contrare wheirof was proven; the finding bloody cloaths in his house; the hearing groans from that place, &c. The Affise found him guilty, and he

was hanged up in chains between Leith and Edinburgh; but never confessed the fact. He was *pessimæ famæ*, and had perpretrat it for greed of the poor beggar's money. On Mackeinzie (whom Cowburne had undermined at Stirling, and got him thrust out of his place of hangman at Stirling), officiated *bourreau* upon him. It was reported, that the hangman of London having murdered his wife, was execute to death for it about the same very tyme with our's. (See my folio Law manuscript, at the 16 of Januar 1682, page 238.)

About this tyme we got accompts from Holland, Zeland, and Brabant, of the dreadfull waftations the inundations of the sea breaking over ther bastions, had made in those places, by a strong westerly wind, overflowing many villages, townes, and countries, and drowning great numbers of the inhabitants, reckoned to many 1000's of persons, and many millions of money. A breach so great that the memory of none living remembred the like; and thesse floods ordinarily are presages and omens of some enflueing calamity, and may render us enamoured of our oune native country, which is not exposed to such hazards from the inbreaking of that furious and merciles element the sea, which is hyer than thesse Netherlands, and would cover them all, were it not debarred by ther waft ramparts and hills of sand on the shoar, which every year and winter it makes impreffions upon, but never overcame them so totally as this. We had also this winter thesse shaking and formidable winds.

Amongs many other sudden deaths at this tyme in Edinburgh, David Lesly Lord Newark, generall to the Covenanters in 1650, was in the church hearing sermon in the fornoon, (wher I fate befyde him,) and went home weill, and was dead by one a cloak in the fornoon, of ane apoplexy, as was conjectured.

In Februar 1682, a servant woman in Edinburgh, about ij at night, throwing over a tub of foull water from a window 4 stories hy, followed the same, and fell over the window into the street, and broke her skull,

and expired some few howers after with lamentable fobs. O Lord ! grant we may be ready whensoever thou shalt call, tho' at midnight.

The 11 of Februar 1682. Sundry peeple being on the North Loch of Edinburgh, the ice broke, and they fell in, 3 wheirof ware drowned ; on a wryter, Mr. David Fergusson, the other 2 ware fleschers ; ther bodies ware not found till the nixt day. We have a proverb, that ' The fox will not set his foot on the ice after Candlemasse,' especially in the heat of the sun, as this was, at 2 a cloak ; and at any tyme the fox is so sagacious as to lay
P. 31. his ear to the ice, to see if it be frozen to the bottom, or if he hear the murmuring and current of the water.—See Loyd's Fair Warnings to a Careles World, page 146, wher ther is a pretty story of the Perfians terror in flying over the river Strymon when frozen, tho they ware before hec'toring, and rusling against a Deity.

This same 11 of Februar, ther was, about ij at night, a great ecclips of the moon, it being near the plenilunium : about 19 digits (points) of it was obscured, and the night being otherways clear, I saw it verie distinctly. Q. Curtius tells, in the History of Alexander the Great, that the Indians ware amazed how the interposition of the shadow of the earth could make a lunar ecclips ; or the body of the moon's interveining betwixt us and the sun, which is 1000 tymes bigger then the moon, should occasion a solar on.

In Januar or Februar 1682, some of the English Republicans, in enmity to the Yorkist party, did deface, cut, and mangle the Duke of York's picture, which is set up at London. The lawyers (see Perezius on the title Cod. de Statuis Principum) saye, it is æquivalent to violat ther statues, and to affront ther persons, for they who do the on wald also kill the principall if they durst. The Mair of London emitted a Proclamation, offering £500 sterling reward to any who should discover the doer. At last, in May, it was found on Broock, a notorious Papist, had craftily and maliciously done it, to thro' the odium of it on the Protestant partie.

About this tyme, in Februar 1682, dyed Mr. Patrick Scougall, Bifchop of Aberdeen, a moderat man, and but half Epifcopall in his judgement. To his chair was advanced Mr. George Haliburton, Bifchop of Brechin, in April theirafter; and on Mr. Robert Douglas, Dean of Hamilton, was made Bifchop of Brichen.

On the 10 of Februar 1682, happened a very ftrange accident neir Iruing, in the houfe of Generall Major Montgomerie. On Margaret Dougall, a fervant ther, being blamed for fome linnens a miffing, fhee, for hir oune vindication, and for difcovery of the theiff, raifes the Devill by the turning the riddle 3 tymes witherfhines. See the full particulars of it in a paper befylde me. The divination *per cribrum* is very ancient, and was known and pra&ised in Greece in the tyme of Paganifme. She may be punifhed by death, not only by the divine law, but alfo by 73 A& of Parliament 1563, wher confulting and feiking refponfes from necromancers and witches is declared capitall, ergo, much more the feiking to the Devill. Some think her confeffion not fufficient, *nifi conftaret de corpore delicti*, that he was raifed by hir or fhe ufed incantations to that end, for her confeffion (though perfevered in) may be *ex phrenesi et tædio vitæ*. See Grotius' notes on the 21 of Ezechiel, v. 21, et feq. See him on Hofea 4, v. ij. This divination *per cribrum* is called by the lawyers *Cofcinomanteia*. See Georgius Adam Struvius, Syntagmate Juris, tomo 2, Exercitatione 49, ad Legem Corneliam de Sicariis, no. 65, page 971, mentioning it.

At this tyme ther was ane Turkish embaffador from the Emperor of Morocco at London, called Mehemet Ben Thummim. He had ftrange wayes of courtesies and faluting, and ane od cuftome of eating his meat, fitting on the floor like a dog: his habit was very antique. The King and Nobility complimented him much; and ther was a firme peace made betwixt the King and his mafter for Tangier.

In Februar 1682, was Thomas Thine efquire, called Thom of 10,000's, P. 32. becaufe he had upwards of £10,000 fterling of yearly rent, murdered in

London by some strangers, by the direction of Count Coningsmark, a Suede. Some said, the quarrell was about the Lady Ogle, aireffe of Northumberland, who was married to Squire Thin, but had left him, and Coningsmark had a kindnesse to her. Others said, he had done according to the custome of his owne country, because Thin had refused his challenge to fight him. The Londoners were much enraged because he was a great follower of the Duke of Monmouth's; and so it might be a draught of the papists to cut of the most zealous and eminent protestants, and the Duke of Monmouth was with him in a coach a quarter of an hower before the accident. They being tryed, the jury returned Captain Fratz and the other two guilty, wheiron they were execute; but assoilzied and fred Coningsmark. From which verdi& the relations of Thin and my Lord Cavendish, who ouned them, appealed as unjust; but in the meantyme Coningsmark escaped. Ther was a great debate amongs the Doctors of the civill law anent ther judging him a stranger and a dependent on ane Embassador, but they gave him a *medietate lingue*, the on halfe of the inqueft forrainers. A German gentlewoman came to the King all cloathed in white, with a petition begging Captain Pratz life, and that he might be granted hir in marriage; but, to gratify the English, the King refused hir desire. He dyed with great stayednes and resolution, without expressing any remorse for the murder; the other two seemed penitent. They were execute in the Pell Mell, which was the place where they perpetrated the murder. The body of Boratski, the Polander, who was the immediat and greatest actor, was hung up in chains, the other two were allowed buriall.

On the 6th of March 168½, the Duke of Albany and York parted from Edinburgh, and took shipping in his owne yaught at Leith road, being desired to see his Majesty at Newmarket. Ther was great solemnity and attendance at his parture. He met with a very croffe and stormy passage, and at last landed at Yarmouth, on the 10 of March, being

four dayes toffed, and rode thence to Newmarket. He left his Dutcheffe and daughter behind him in Scotland, wher the Dutcheffe had the good fortune to conceive and be with quickchild when his Royal Hynesfe left hir. (Vide infra pag. 38 in fine.)

Seven of the Scots Bischops wrot a letter to the Archbischop of Canterbury, at this nick of tyme extolling the Duke of York's care of them and our religion to the skies; which was printed to avoid false copies of it that ware going abroad.

On the 10 of March 1682, was Major Joseph Lermont apprehended at his oune house, neir Peibles, by the Laird of Meldrum; he had been a commander of the rebells both at Pentland Hills and Bothuel bridge. Many attempts had been made to take him formerly, but he had frustrated them all by a secret subterranean cove he had digged under his house, which, like a mine, did lead him under the ground of his yairds, and thence away to a mosse, out at which passage he formerly escaped, but was discovered this tyme. He ouned before the Privy Counsell all his actings, but feimed to disclaime the wild ungoverneable Cameronian principles. A little after this, another of the ringleaders of that party, on Macclellan of Barfcobe, was also seized and sent in prisoner to Edenbrugh. Being both sentenced in the criminall court to be hanged, they ware reprieved; as also on Fleeming, who was condemned for the same.

In March 1682, the French King having blocked up all the avenues of P. 33. the city of Luxembourg by a great army, so that ther was no humane probability but it and all the adjacent province behoooved to fall into his hand, ther being no force on foot, or likely in haft to be raised, that could make head against him, or resist him; yet, at the King of Brittain's intercession and mediation, he removed the blockade (when ther was none to pull the prey out of his jaws, or to preserve the provinces, so far as they belonged to Spain), and promised not to trouble Christendome this summer, at least, none on this syde of the Alpes, but proffered his help against

the Turks. Some cryed up this as a noble, generous, and vertuous heroick act. Others thought it was but to amuse England, and to carry on the Duke of York and the Popish interest that the English clamour for a Parliament to save the Netherlands might be stopped. Others said it was for want of money that he raised that seige, or with a designe to fall upon Coloigne and Liedge, or to render the Empire secure, and to break the measures of their leavies and confederacies.

About this same tyme, it was reported that the French King, besides what he has caused his convocation of the clergy to declare against the Pope's infallibility and superiority over a generall counsell, and his power of excommunicating Kings (de quo supra, pag. 17 in fine, and see the printed Edit;) he intends likewise to call a generall assembly of his most learned churchmen, both Protestants and Papists, and cause them set downe rules and canons for a reconciliation, and for drawing his whole subjects unto ane unity of religion as much as can be. This minded me of Zeno's Henoticon and the Emperor Charles the 5th Castellanian Interim, called 'Inter-religio Cæsarea;' which attempts never prove fortunate nor successful, of the which see large reflections in another 8vo history manuscript, marked F, page .

The French King resolves to purge the Roman Catholick religion as much of superstition and idolatry as may consist with policy and his interest, to draw all his dissenting subjects in to him, who stumble at these grosse errors; (see alibi of the Bishop of Condom's book, putting a fair face on the popish doctrines and practices, which book is said to be ratified by this Pope); and therefore, he is to discharge the carrying the Hostie in procession, and adoring it publicly; and is to appoint the Masse to be read and sung in French (into which he has already translated it,) and no more in Latin; and has sent over to the Bishop of London to search the English records by what steps Henry VIII. of England began and carried on his reformation. Dr. G. Burnet's history (de quo alibi) will give much

light to this. It's thought, he intends little more reformation but to suppress some monastries, and assume their revenues as Henry VIII. did, and to make the religious orders and monks depend on the Bishops and not on the Pope, as now they do. He caused register his edict in the records of the University, the Sorbonne, and the Parliament of Paris.

In 1682, the Assembly of the Grand Augustins have ratified the King's doings. The Benedictines demurring on it, the King has incapacitated 12 of their chief religious men, and called for an account of their revenue. The Sorbonne are severely reprov'd by the Parliament of Paris for delaying to approve the King's actions against the Pope, with whom they joined as Jansenists, in odium of La Chaise and the other Jesuits, who have the French King's ear. (Vide supra pag. 17.)

The King of Spain, being displeased with the Prince of Parma's government of the Netherlands, hath sent, in March 1682, the Marquis de Grana to be governor there in his place, and the Prince's secretary, De Prado, is imprisoned till he give account of his embezzling the publick money. Anent the custom of sending a governor hither each 3 year, see Observes alibi.

In this same month of March 1682, it was reported, that the King of P. 34. Sweden had suppressed the Senate, by whose counsel he and his predecessors used to rule, and had made himself a hereditary absolute prince.

In the middle of April 1682, the King and his brother having come to London, the protesting Lords and the city resolved to make a great feast on Easter week the 21 of April, and by printed tickets, bearing that they were resolved to meet, and, by a sermon, thank God for preserving his Majesty, the Protestant religion, and the English liberties from the hellish Popish plot. Great numbers were invited to be present at Haberdasher's Hall, where there was great preparations. But his Majesty, looking on this as a seditious act of contempt against the Duke of York, whom they would not countenance, he by an printed act of Privy Council, discharged that

meeting, called the True Protestant Feast, on this narrative, that the appointing of days for fasts or thanksgivings was a point of his prerogative, and for his subjects to do so it was to make parties, and distinctions, and confederacies amongs them, &c. They so far obeyed, as not to keep it at the place appointed; but had a great meeting else where, with bonfires, ringing of bells, and the solemnity of the apprentices burning the Pope. The King and the Duke parted the next day from London to Windsor.

About this tyme, Sir John Dalrymple's eldest sone, a young boy of 10 years old, without designe, shot his younger brother dead with a pistol he found lying on the table.

On the 3rd of May 1682, (the same day whereon in the year 1679 the late Archbishop of St. Andrews was murdered) happened a tumult in Edenburgh, which lasted 2 dayes. The occasion of it was, on Johnston, son to the town major of Edenburgh, who was ane lieutenant or ensigne in the Dutch service, and some other officers, having seized upon some trades apprentices, and prevailed with them to consent to goe away as souldiers to the Prince of Orange, and particularly attempting to carry away some who had committed a riot on the constable of the bounds, and ware theirfor imprisoned, ther commorads fell upon Major Johnston, and beat him, and extorted a promise from him that he should set these youths at liberty. But he, instead of performing theirs, the next day got some of the King's forces out of Lithgow and Mar's regiments to accompany and conduct these prisoners safely to the ships lying ready in the road of Leith to transport them. Whille they are going doune the streets, some weemen and tradesmen cryed to them, "Pressed or not pressed," and they answered that they ware pressed, whereupon they began to throw stones and other such materialls at the souldiers; and when they came towards the Nether boll, the rabble and commonalty gave them a shreud attaque, and by what was thrown at them furth of windows and from the houses that they ware their building, the King's forces ware exceedingly assaulted and abused;

whereupon Major Keith gave them command and orders to shoot amongs the multitude, which they did, and there were about 10 or 12 innocent people, (none of them who occasioned the uproar but by-standers) some men and others women, killed by this shoot, whereupon they disappeared. Yet hearing there were some privy counsellors met in Sir George Kinnaid's chamber, they insolently came and threw in stones at the glass windows, which was worse than the offering to rescue their neighbours. Thereafter 3 of them were apprehended, whom his Majesty's advocat resolved to get hanged for examples as ringleaders; and on the 6th of May pannelled them in a criminall court for presence and accession; but the Affise would P. 35. not find them guilty; (de quo plura, in my folio Law MS. marked [E.], at the 6 of May 1682, p. .) The magistrates were much blamed for their cowardliness and slowness in not suppressing this tumult, and the allowing the King's forces to enter the town, (as if they could not manage their own affairs and compose uproars within themselves,) contrary to their privileges, and so giving occasion to shed more blood than has been at once these 60 years done in the streets of Edinburgh. The Privy Council ordained an indyment to be raised against them, concluding that they ought to be deprived for their maleverfation and negligence. It was proposed that the Provost, or Dean of Guild, as head of the merchants, should find caution for their keeping the peace under the pain of 50,000 merks, and that the Deacon Conveener should do the like for the trades. The citizens in this affair, especially the crafts, were exceedingly dissatisfied with their magistrats' carriage. (See more of this affair, in my folio Law MS. marked E, at the 7 and 13 of May 1682, pages 256 and 258.)

On the 3rd of May 1682, the Duke of York parted with his Majesty, and took shipping on the 6th of May, about 5 or 6 of the morning, being Saturday, the Gloucester frigate (in which he was) fell by negligence and bad conduct or designe on these shelves or banks of sand within 8 or 9 leagues of Yarmouth (which is the nearest land), called Limon ore (Lam-

mer), and was there broken to peices; though it was a strong man of war mounted with 56 canons and could have carried 10 more. The Duke of York and fundry others escaped by the boat, as Winton, Perth, Midleton, &c. But ther was about 150 persons drowned, wheirof 80 ware persons of quality or gentlemen, and the rest seamen. Of Scotsmen ware drowned the Earle of Roxbrugh, the Laird of Hopeton, Sir Joseph Douglas of Pompherston, Mr. James Leviston do&lor of medicine, Patrick Gordon Prefident Haddo's coufin and fervant, Mr. James Lidderdale attendant on Roxbrugh, with many others. The Lord Obryan perished also heir. The Prefident, Sir George Gordon of Haddow, now Lord Chancelor, narrowly escaped drowning. It was a lamentable and fatall accident, charged by some on their unnecessarie attendance on ane unfortunat Prince, who hath very bad luck at sea. The pilot was a Scot, on Aird in Borrowstounnesse, who was threatned with hanging for going to sleep, and giving wrong directions to steer; though he defended himselfe, however, he was referred to a martial court of Admiralty when they should returne to England, which was *locus delicti*. At last, he was condemned to perpetuall imprisonment. The Duke arrived at Leith on the 7th of May at night, in the frigate called the Happy (Speedie) Returne, wheiron ther ware great outward exprefions of joy, by canons, bells, &c.

On the 8th of May, in the morning, at Privy Counsell, the Duke produced the King's letters patent constituting Sir George Gordon of Haddo Prefident of the Session, to be Lord Hy Chancelor of Scotland, in place of Rothes deceased; which was a mighty wide step of advancement for him, at which the nobility grumbled in ther bosome, they having been now thesse many years in possession of that place, and thesse 60 years not interrupted by any but Chancelor Hay, a gentleman then created Earle of Kinnoull, and Archbishop Spotiswood. His signator decided ane old controverfie betuen the Threasurer and Chancelor, who should preside in Exchequer; and ordains the Chancelor to have precedency in all courts ex-

cept the Exchequer, wheir the Trefurer principall is present. As the office loft in this, by falling in a gentleman's hand, so it's said the Archbishop of St. Andrews is appointed to have the precedency in all cases before the Chancellor; for which ther was a letter formerly, but Glencairne P. 36. and Rothés would never yeeld it to Archbishop Sharp. It's reported, that Chancellor Haddo is created Earle of Aberdeen. (Vide the 8vo MS. of Session affairs, marked I, page 67 et sequente, wheir ther are more pretty remarks.) The Marquis of Athol met with a great disappointment, for he thought himselfe secure of this office, and wanted not ground, having officiat as Chancellor in the last Parliament. The Duke likewayes produced the King's superscribed signators; on, making the Marquis of Queanberry sole and principall Trefaurer of Scotland, and revocking and discharging the former commission of the Trefury to Lauderdale, Strathmoir, Atholl, Dundonald, &c.; and another, appointing the Earle of Perth to be Justice-Generall in place of Queanberrie.

On the 11 and 12 of May theirafter, the Duke of Hamilton, Earles of Tuedale and Middelton, and Generall Major Drummond ware admitted Privy Counsellors. And on the fyfteen day of May, the Duke, with his Dutcheffe and Lady Anne, his daughter, and ther wholl court and retinue, parted and shipped in at Leith for England; wheir they arrived on the 27th day of May theirafter at London, being long detained and crossed at sea.

Some began to compare my Lord Haddo's rising to be Chancellor to Oliver Sinclair's being advanced, as they apprehended, by King James the 5th to be Generall of all his forces at Solway Sands in 1542; wheirat the Lord Maxwel, and other nobility present, took such offence that they declined to fight; so that the English got a great victorie, meirly from the contempt the nobles conceaved at the advance of a small gentleman above them.

In the end of April dyed the Lord Roffe, at his house of Haulkhead, in the West.

In the beginning of May, ther was a great tumult fell out in Dublin

by the tradesmens apprentices their, against the Popish tradesmen and their magistrats, for tolerating them, like Demetrius' plea anent Diana's silver shrines. In this uproar some were killed. It happened much about the same tyme with our hubbub at Edinburgh. On of the articles they craved was, that the Masse and Popish preists should not be tolerated as they were; and they offered to instruct, that severall of these tradesmen, that had been received as if they had been poor, distressed, banished French Protestants, were truly Papists, and seen at Messe, and who could have no other designe but of another massacre; and they also declared against a Popish successor to the Croun.

In May and June 1682, the affair of the Quo Warranto, was agane set on foot against the City of London, (de quo supra,) and the City having given in ther defences against it, they produced Charters from King John and King Richard, and others, giving the City the election of ther shireffs, and their shireffs the nominating the Jurie for Middlesex, with findry other priviledges; wheirupon, the Court or Tory party, desisted at that tyme from prosecuting the said suit of the Quo Warranto. (Vide more pag. 49.)

On the 24 of June 1682, the wholle liveraymen (freemen) of the 29 free incorporations (companies) of London, met to chuse ther Shireffs for the ensueing year, and having polled, they found that Mr. Papillon and Mr. Du Bois, were chosen by plurality, and not North and Box. Sir John Muire (Moor,) the Lord Major of London, adjourned the Court, and protested against it; but they, in a great tumult and uproar, proceeded, and were very insolent against him. Wheirupon, complaint being made to P. 37. the King's Counsell, they immediately sent Mr. Pilkington and Shut, the 2 shireffs of the former year, to the Tower; but upon a Habeas Corpus they were presently bayled and set at liberty, under the paine of £20,000 to appear. They are ordained to be pannelled, together with the Lord Gray, Sir Thomas Armstrong, and Mr. Cornish, as encouragers and abettors of the said tumult; and the Chancelor told them, it wanted not

many degrees of treason to offer violence to the Mair, who is the supreme magistrat within London. The plea betwixt the Maire and the Whig party was, that he claims, in right of his office, a power to creat any he pleases to be on of the 2 Shireffs of London, by the ceremony of drinking to him; and that all that belongs to the City and Common Council, is only to elect the other, and to confirme the person he hath choisen, but that they have no power to reject him, or choise another. And for proving this he adduces an act of the Common Counsell, anno 24 Elizabethæ Reginae, mentioning that priviledge, like as the tenor of the writ for meeting imports this, that they are only to ratify his election of that on, and to choise another; like the Dean and Chapter, who, by the King's *Congé d'elire*, can doe no more but confirme that person to be Bisshop whom the King names to them. I remember Sir Richard Baker, in his Chronicle of England, (in the life of Henry VII. pag. [141],) tells, that Sir Henry [John] Collets, then Lord Mayr of London, drank to on Percival, his oune carver, and by that made him Shireff of London, and who afterwards came to be Mair himselfe. The discontented country party, who stood by the Cities priviledges, on the contrarie argued, that all his priviledge was only to prick doune any on he pleased, theirby to get him put upon the list of them who ware to be chosen; so that they behooved to allow him a venture, if by plurality of suffrages he should carry it, but he had no power peremptorly to impose on upon them; and wherever they had confirmed the person named by the Mair, by the records it appeared, he alwayes declared he past from his priviledge of naming on to be Shireff; and esto, ther had been any such priviledge, it was now long ago fallen in defuetude. This was of great importance to the King, for the Shireffs (if they war weel affected to his Majesty,) they would impannell and call such juries as he ware satisfiied with; so that, when he minded to proceffe Shaftsberry or others, he might get such assyfors as might find him guilty, which hitherto he hes not been able to get.

The Mair had this year drunk to Dudley North, brother to the Lord North, as the person his Majesty trusted in, and aimed to have Shireff; but the City (tho they put North in the lite) gave the maniest votes to the above mentioned 2 persons, who had both of them [been] on Shaftsberrys jurie lately, and the on of them was forman, and had returned 'Ignoramus' for ther verdict. The Mair adjourned the Court, and ordained the liveray men to attend the 5th of July nixt thairafter, to confirme North, and to elect another; but they proceeded, and adhered to the choise they had made themselves; and on the said 5th day, the Mair sending ane excuse of his being unweel, and craving a continuation, they proceeded of new to the pole, and declared the forsaide 2 persons to be Shirives; which was judged a farder contempt. But the freemen deny the Mair hes power to dissolve or adjurne them without ther oun consent, till they had done the affair they met for. (Vide infra p. 50 in fine and 51.)

- P. 38. In June 1682, we heard, that the great Duc of Mosco Emperor of Ruffia dyed, and that his brother, or brother's sone, a boy of 12 years old, was advanced, by the assent of the peeple, to succeed him; which assent seims strange, he being a most absolut monarch, if not a tyrant. Yet ther was a great uproar among them about it.

About this tyme dyed the Lord Arbuthnot.

5th. Julij 1682. The Lords of the Session having met, the Chancelor produced his Majesties letters for making Neuton President of the Session in his rounge, and Sir George Nicolson to be ane ordinar Lord in his place; and Pitmedden was admitted on of the criminall Lords in place of Newton. See this at more lenth in my 8vo. MS. of Session occurrents, marked I, page 68 and seq.

About this same tyme, my Lord Halton returned from London, whither he had gone in the beginning of May, contrare to the desire of the Chancelor and Trefurer, who required him to stay and attend the Committee named by the King, for trying the coinage and mint. Upon his return

they proceeded very rigorously with him, and caused him peremptorly give in a paper containing a representation of the state of the Mint; wheirin he having couched his defences upon his exonerations, and the King's publick Amnefty and Indemnity in 1679, they urged him to signe it, to see if they could make it amount to a declinator of ther power, or draw him to a tacit acknowledgment that he had coined a quantity of copper beyond the 3000 stone contained in his Majesties warrands; and which definit quantity S. J. Falconer, and other officers of the mint, had upon oath already confessed was far exceeded by them many 1000 stones. (But see this deduced at more lenth, in my folio Law MS. marked G, at the 12 of May and 31 August 1682, pag. 257 and 2 .)

About the same tyme, the Duke of York caused his Attorney pershue Pilkington, on of the Shireffs of London, on the statute of Scandalum Magnatum, for £10[0],000, dammage, that in the Parliament held at Oxford in March 1680, he being a member of the Lower House when the bill of seclusion against the Duke of York, was passing, he moved, that besyde the generall narrative and reason of the Duke's being a Papist, they might also insert this, that he was on the Plot, and forknowledge of the Papists burning the city of London in 1666; therefore, the Duke craved he might be fyned in £100,000 sterling. When this cause came to be debate, he offered to prove the Duke's accession to that fyre, and therfor craved to be affoizied, which was a bold defence; but *veritas convitij non semper excusat a convitio*; only what is spoke in Parliament is not properly Convitium. If the Duke prevaill, he hes reason to be afraid. (Vide infra the sentence, p. 44.)

In August, the Dauphinesse of France, (who is the Duke of Bavaria's sister) was brought to bed of a sone, who is designed the Duke of Burgundy. They say, thesse severall hundred years the French kings never lived to see a grandchild of ther oun body, till this King.

About the same tyme, the Dutchesse of York was brought to bed of the

child conceived in Scotland (de quo supra, p. 32,) which proved a daughter, P. 39. and was baptized Charlotta Maria. On the news of it were great semblances of joy made at Edinburgh; and a comet appeared for 2 weeks at the very tyme, but was nothing so big as we had in December 1680, (supra pag. 6, 7, & 8.) I have seen a late French book proving that comets prognosticate nothing that's fatall or dangerous, but rather prosperous things; yet, at the same tyme it shone, the Duke of Lauderdale, that great minister of state, dyed, (de quo infra, 24 August.) This daughter of the Duke's dyed in the beginning of October 1682.

24 of August 1682, dyed John Maitland, Duke of Lauderdale, the learnedest and powerfulest Minister of State in his age, at Tunbridge wells. Discontent and age were the ingredients in his death, if his Dutchesse and Physicians be freed of it; for shee had abused him most grossely, and got all from him she could expect. The Duke of York and he differing together, he, with sorrow and anger, saw his influence with his Majesty everie day diminishing, though the King was so generous as not to desert him to the malice of his enemies, who offered to accuse him for his life; but the King would not give way to it. Yet Lauderdale, some weeks before he dyed, was heard to regrait, in Cardinall Wolfes words, that if he had been as faithful to his God as he had been to his King, he would not have shaken him of in his old age, as his master, and his brother the Duke of York, had done: see Baker's Chronicle of England, in the life of Henry VIII., page [40]. And he minded, that he had waited on the King to and from Oxford, in March 1680, when many turned their back on his Majesty. It were to be wished that this would be a beacon and example to other Statesmen. The Duke of York was certainly most ungrate to Lauderdale; for Lauderdale was the first who adventured, in August 1679, to advise the King to bring home the Duke of York from Flanders, wher he was then living, and which counsell contributed much to the Duke's advantage. It's true, Lauderdale's main aime (and so it is all great men's

designe to uphold themselves) was to preserve himselfe, for he fand the Duke of Monmouth, (who then ruled all with the King,) and the Duke of Hamilton, were combining in a knot to break him, and he saw no expediter way to disappoint them, then by bringing in a 3rd. Then, when England was found too hot for the Duke of York, Lauderdale again advised him to goe and stay in Scotland, rather than Flanders, and promised to cause all his freinds and party ther (which was great,) to attend his Hynesse, and do him homage; and he did so, but he lost his owne party by it, and the Duke made up a mongrell party of his owne in Scotland, partly composed of Lauderdale's freinds and of others, new ones, whom York assumed. And this second counsell, sending the Duke to Scotland, conduced exceedingly to the fortifyeng of the Duke's party in England.

The great thing that implacably angred the Duke of York at Lauderdale, was, his voting the Viscount Stafford guilty of the treasonable Popish plot in the Parliament in December 1680; and that *cum elogio*, as he was a good Protestant, *hinc illæ lacrymæ*. From that hower he eyed and hated him, and broke his power and party all he could: so he dyed seasonably for his owne credit. But all persones cryes shame upon him for ruining the memory and standing of his family, by giving away Dudifton, &c. in property to his Dutcheffe, and Leidington to hir son Huntingtour, (thought by some to be his owne.) Leidington was not honestly purchased, for it belonged of right to the grand-children of William Maitland, his grand-uncle, and Secretar to Queen Mary, and who lived in Rowan in France, and to whom the Duke of Lauderdale paid a small yearly pension. (See this, and fundry other things of the names of Maitland and Hamilton, in a 4to. MS. marked pag. , from the Duke of Roan's testimonie and Spanhemius.) Though in one sence we may use David's words of Abner, (2 Samuel, cap. 3. v. 38,) that in Lauderdale's death a prince and great man has fallen in our Israell; yet we may weel apply what is said of the

fame Abner (v. 33, ther,) to Lauderdale, that he dyed like a fool, by the hand of a woman, as Abimelech and Pyrrhus, murthuring the memorie of his family and estate. But the Spirit of God tells us, (Jeremy 17, v. 11,) they who get riches, and not by right, shall leive them in the midst of ther dayes, and in ther end shall be a fooll; so we are to remark the event of this purchase the Dutchesse hes made in abusing hir husband.

In the end of O&tober, the Duke of Lauderdale's corps arrived in Scotland, and ware set in Inueresk church; and he was buried on the 6^t day of Aprill 1683, at the church of Hadington, beside his ancestors, and the Bishop of Edenburgh preached his funerall fermon. (See more, infra page 50.) His Dutchesse pressed to have him buried at Lauder, that his lying at Hadington might not seeme like a symbolicall possession of that interest their, now dispoſed to hir.

As for the many places and offices of trust Lauderdale possessed under his Majesty, they ware all filled and disposed thus:—His place as being a knight of the most honorable order of the Garter, was given to his mortall ennemy the Duke of Hamilton, which speaks the wain inconstancy of all fluid things;—How would it fret Lauderdale if he could lift up his head and see Hamilton succeed him in that stall, whom he had persuaded the King to be a disloyal factious man! But his Majesty, being facile, forgets theſe characters, and sends for Duke Hamilton, who went to London in O&tober. His place of President of the Privy Counsell, was given to [the Earle of Linlithgow]. His Secretaries place, he had installed the Earle of Murray in it about tuo years ere he dyed, but all that while he had reserved the £1000 sterling pension annexed theiſto; and instantly on his death, the Earle of Middleton (whom Lauderdale had kept out all his tyme,) was added by the King as his conjunct Secretary for Scotland. (See alibi, of the debate of præcedency betuixt Sir Archbald Atcheson, 2d secretary, with my Lord Stirling Alexander, and Sir Thomas Hope then King's advocat.) His office of Governor of the Castle of

Edinburgh, was bestowed on the Marquis of Queensberry, Lord High Treasurer; and Major White was made Deputy governor or Constable in place of Drummond of Lundie, now made Lord Treasurer depute, upon Halton's removal from that place. Drummond, Earle of Perth, was installed in his place, as one of the 4 extraordinary Lords of the Session; and his government of the Isle of the Bass, also given to Perth, was annexed to the Crown and Exchequer. His office of being Shireff principal of Haddington or East Lothianshire was given, in May 1683, to the Earle of Winton; who choise Sir John Ramsay and Haliburton of Inch-cairney his deputies. And his being one of the Commissioners of the Treasury ceased, and became extinct in May last, when Queensberry was made sole High Treasurer, and the Duke of York took his Commissioner's place over his head. So that we see, between him and his brother Halton, and his sons, there has been a numerous accumulation and suppression of great and considerable places of trust, which, if rightly distributed, might have pleased many expectant pretenders.

31 August 1682. At Privy Council, a letter from his Majesty was P. 41. produced and read, declaring all the officers of the Mint's places void, and particularly Halton's as general, and Sir John Falconer as master; in regard the King, with his Scots council, having considered the report of the Committee, (de quo supra, pag. 38,) he found they had misused and grossly exceeded their trust, and therefore deprived them, and referred them to be punished civilly or criminally for the same, as his Advocate thought fittest. (See more of this in my folio Law MS. marked E, at the 31 of August 1682, p. 266.)

My Lord Halton's place of Treasurer depute was bestowed on John Drummond of Lundy, Perth's brother, and Major White got Lundie's place as Governor depute of the Castle of Edinburgh. Halton's place as a Lord of the Session was given to John Wauchop of Edmiston, brother to Nidrie. His office as Shireff principal of Mid Lothian was bestowed on the Earle of

Dalhousfie, whose grandfather possessed it till his death in 1672, and then Halton got it; but Dalhousfie dyed before instalment. (Vide *infra* p. 44.) And then the Shireffship of Mid Louthian was given by the King to the Earle of Aberdeen, Chancellor, who entered in December 1682.

Thus Halton, and in him we may safely conjecture the power of the Maitlands fell for this age, little regretted, being so misfortunate, that, by his insolent and disobliging behaviour, he acquired many enemies, especially amongst the nobility, and had but few friends, and yet was so blinded with a confident security that he was in favour, and the Duke would not desert him, till the very blow, unexpectedly to him, surprized him. Though the Duke was sensible enough, that Halton had very officiously waited on him, and prosecuted all his designs, yet he found the ouning of him in the last Parliament, when Kipperminshoch accused Halton of perjury, was heavy both to him and to the government; and that Halton's violent way of interesting himselfe in carrying on the Duke of York's concerns, was so far from advancing them, that it raised up enemies, both in the Parliament and country, to counteract the Duke, merely in odium to Halton; and that if he did not espouse these things so fiercely, there would not have been so much opposition made to them; and the Duke had no reason to let his affairs either suffer or be retarded, because they were managed by Halton, who was so universally hated that any thing he attempted was disliked, though for no other reason than for his own sake, and that he had a hand in it. And he was a man who, in case of intestine commotions, could bring no following to help the Duke in the fields, and had no rooted interest in the country. These were the things that the courtiers, Halton's enemies, answered, when those who were indifferent accused the Duke of York as ungrate to Halton, who was so vigilant in promoting all his affairs, and was waking busily for him many a time, when the significant men now were sleeping and doing nothing; and whatever he demerited at the country's hand, yet he deserved nothing but the best

rewards from his Royall Highnesse, to whom he had been so obsequious, and had served the prærogative and the church government to the hiest pitch it could admit, wheirby, though he had lost the affections of the people, yet he merited weel from his prince. But they urged, on the contrary, that all thosse services, wheirin Halton officiously intruded himselfe, though they commended his zeall, yet noways his prudence and condu&t; and though he resolved therby to make himself appear usefull and necessary to his Majesty and the Duke, and to ther government, yet in effect he was but a log and burden to both, and created them personall ennemies, wheir otherwayes they would have had none. Yet so tender was the Duke of York in laying him softly aside, in regard he had boasted much of his serviceableness to the King, and that generally his errors enclined P. 42. in favors of the croun against the country, and for avoiding the tach of ingratitude, though he knew it would displease few to use the King's absolute and arbitrary power by the late cumulative act of jurisdiction in 1681, to remove Halton; yet, to vindicat and justify the fact, the Duke was advised to doe it rather *per modum justiciæ* then *ex plenitudine potestatis*, and to raise a procefs against him, and upon malversations to deprive him, that none (who considers he was deposed upon just reasons proven against him) may be discouradged to serve the King, or fear they may get the same reward, after they had incurred ane universall odium for ther zeall in serving him. And thus, albeit it would have been both more safe and creditable for Halton to have been laid asyde without giving him a reason, yet it was judged more politique to gull the people, that ther should be a semblance of justice, compelling his Majesty to do that, which otherwayes he would have been loath to have done to any who had served him so fervently. They ware, however, resolved to be rid of him; but a good pretext offered, on his brother the Duke's death, that he, falling to be Earle of Lauderdale by the tailzie, could not properly continue ather to be Trefurer-depute, or a Lord of Session. And ther ware 2 remarks on it;—primo,

That the King's letter against him was signed that same night his brother the Duke dyed ;—secundo, That the letter was red and intimat on the 31 of August, which very day 12 moneths he and his sone, the Justice Clerk, ware very active and busie in carrieng on the fatall act of the Test which is dated the 31 of August 1681 ;—And this is ther thanks.

Halton, suspecting that a bill of ease was coming against him, offered, the day before, a dimission of all his offices in my Lord Chancellor's hands ; but he, knowing it would come another way, declined to accept their-of. It was also at this tyme, in the beginning of August, designed to stain him with briberie, in taking 14,000 merks from the tacksmen of the Excise of the Louthians, for his vote, and being instrumentall in procuring them the tack. (But see how this is manadged in my folio law MS. E, page 263, et seq. Item, anent his being suspended from all his offices see ibidem, p. 266.)

In the month of September 1682, ther was great stir in London anent the Shireffs (de quo supra, p. 36 & 37). The King and Tory party ware for North and Box ; the City and Whigs ware for Papillion and Du Bois. Box being timerous would not hold, but payed his fyne ; wheron Sir John Moor, Lord Mayor, præfixed a day for choifing a new Sheriff in his rounge ; at which the most part of the liveray men met, and protested ther could not be no new election, in regard they had choifed 2 already ; notwithstanding, the Mair, with about 30 freemen, proceeding to a new election, choifed on Captain Rich in Boxe's place, though ther ware 1000's of the freemen protested against it. Yet, having the King's authority to back him, he obtained the saids 2 persons to be sworne, confirmed, and admitted to be Sheriffs for London, the citizens resolving not to be provoked, by any arbitrary usage whatsoever, to rise in armes, or to mutinie, knowing ther ware some who desired no greater advantage of them, but intended to try the illegality of the Major's procedure at law. This point, which the

P. 43. Duke of York hes gained, contrare to the City of London, was by some

judged nowayes the King's interest to lose his subjects affections, but that he was forced to yeeld many things to his brother and the Popish party, contrary to his owne inclination, meerly out of fear leif they should kill him and rob him of his life.

The Duke of York, finding he had carried the Sheriffs, and got them put in possession of the exercise of ther office, he caused arrest the Duke of Monmouth, as he who travelled up and doune England convoking the peeple, making himselfe the head of a party, (as he did lately at Chester,) to the terror of his Majesty and his good subjects, and to the weakning of the government; but he was released on caution. It was reported, that the Earle of Shaftesberrie had fled; and many scurril pamphlets followed him.

At Michaelmas, the 29 of September 1682, the Aldermen and freemen did meet to elect and choise a Lord Mayor for the year ensuing, in the City of London, wher 4 persons fell in competition by nearness of votes; viz. Sir William Prichard, on Tulse, on Gould ane independent, and Mr. Cornish, who had been shireff 2 years agoe. The Whig country party ware for the 2 last, for whom fundry hundreds of Quakers had voted. But a scrutinie being appointed to try the legality and capacity of the voters, thesse scrutineers, after the pole, and comparing and examining the books and registers of each companie and corporation of the livery men voters, they found fundry of them who had voted had no freedome at all; others of them, especially amongs the merchants, taylors, and glovers, had not tane the City oaths, and so could not vote; others would take no oath at all, such as the Quakers, and so ought to be rejected. This act lost the Quakers some of the favour they formerly enjoyed, both with the King and the Duke of York, though many suspected the craftier of them as only disguised Papists in masquerade. At last it was found, that Sir William Prichard had the manifest uncontroverted votes, ther having 2,190 voted to him; and so he was declared and admitted Mair, he being the

person the King aimed at. Some alledged, that the freemen should not be abridged of ther liberties of voting, for choifing ther magistrats, by oaths imposed on them ; though we in Scotland are fettered in that case with declarations, oaths of alledgeances, tests, &c. (See the Canon Law, *De Electione per scrutinium facta.*)

Theirafter, the saids discontented citizens raised a proces before the Judges of the King's Bench, to have Du Bois and Papillion declared Shireffs of London ; in which the Judges ware ather so conscientious, or so overawed with the rabble, that they ishued out a writ called Mandamus, for swearing thesse 2, Du Bois and Papillion, as the 2 legally elected sheriffs ; but the Duke of York, by his moyen, got it stopt and delayed that terme.

About the 20 of November 1682, ther happened a great fyre at London, amongs the seamen's hamlets at Cinnamon street in Wappin, wher near 1000 houses ware brunt doune, (by accident or otherwayes, not certain ;) and some peeple, in blowing up the houses to intercept the fyre, ware killed.

P. 44. About the same tyme, we had a report of a famous Scots jesuit, called Father Abircumby, confessor to my Lord Nithsdale's family, that at London he had deserted his religion and turned Protestant, and in wryting had given the reasons of his change.

In the end of November 1682, the Earl of Shaftesberry, though very infirme and aged, yet, for fear of his life, fled over to Holland. And at this same tyme, the King made a creation of some English noblemen ; as the advancing the Marquis of Worcester to be Duke of Beaufort ; and the Duke of Ormonde to be ane English Duke under the same stile ; and the Lord Hide to be Earle of Rochester, the male ishue of Wilmot, Earle of Rochester, lately deceased, being extin&, and so the title and honor returned to the King ; and Sir George Kinnaird in Scotland, to be a temporall Lord, called Inchfure ; and Sir George Gordon of Haddo, Lord

Chancelor of Scotland, to be Earle of Aberdein, Vicount Formairton, Lord Haddo, Fetherick, Tarvas, and Kellie.—Providence suffered Rotcheſter's memory to extinguiſh, becauſe of his bad atheiſtick life, though he dyed repenting. (See G. Burnet's account of his life.)

On the 29 of November 1682, dyed William Ramſay, Earle of Dalhouſſie, at his oun houſe. His Lady, the Lord Muir in Ireland his daughter, married the Lord Ballenden, the late Roxburgh's brother, within 3 or 4 moneths after this.

At the ſame tyme, dyed Prince Rupert, Duke of Cumberland, unckle to the Elector Palatin, aged 63. In the diſſecting him they found a big ſtone in his bladder or ureter, which certainly would have gravelled and pained him, but the water had perforated it in the middle; as alſo, in the ſubſtances of his heart and brain they found 2 bones;—which ware very extraordinarie remarks.

In the moneth of November 1682, ſome perſons inhappily ware ſo far ſeduced by Satan with us, that they became ther ounne bourreaus and executioners. On John Falconer of Feſdo, lait wairden of the Mint, from ane apprehenſion of hazard, (becauſe he was ordained to be perſhued for malverſations in his office with my Lord Halton, &c.,) he hanged himſelfe; and on William Couper, a wryter, young man, did the ſame at Edinburgh; and on Wilſon, a tennent at Falkland, drowned himſelfe;—which are bad omens and prognosticks.

At the ſame tyme, Shireff Pilkington is fyned at London, by the jury, in the ſumme of ane hundred thouſand pounds ſterling, (a waſt ſumme) to be payed to the Duke of York, as dammages modified againſt him in the perſhuit on the ſtatut of Scandalum Magnatum, (of which ſee ſupra, p. 38.) And beſydes the words their ſpoke, it was farder libelled, that he had thir expreſſions in Aprill laſt, when the Common Counſell of London met to ſee if they would ſend any to welcome the Duke of York's ſafe arriveall from Scotland to Newmarket, in England; “What, (ſaid he) ſhall we ſend

to congratulat a man who brunt our city, and is come to cut the throats
 P. 45. of our wives, children, and felves!" The expreffions ware fully proven
 againft him by Aldermen prefent, tho' his counfell at law ftudied to di-
 vert the words as only fpoke by him againft the Papifts in generall.
 They report the fine is about the half of his eftate. He hes entered him-
 felfe in prifon, and fo, by the Englifh law, they cannot both detain his
 perfon, and affect his eftate.

All this fummer, the Hungarian Proteftants (commonly defigned the
 rebells of Hungary) have been in armes againft the Emperor of Germany,
 ther lord and mafter, under the command of Count Tekelie as ther gene-
 rall, becaufe the Emperor had broke to them the *leges regnandi*, and his
 capitulations, wheirby they ware to have the free exercife of the Reformed
 religion; and he, at the Jefuits' perfuafion, had tane ther minifters and
 put them as flaves in the gallees, and had cruelly oppreffed thẽmfelves;
 and upon thir, and other grounds, they juftified their rifing, (fee G. Bur-
 net's Conferences anent the Church of Scotland, p. ,) and got the
 Turks to ounne and affift them; and in fundry skirmifhes and rancounters
 with the Emperor's forces, they had the better, and took fundry forts and
 towns. (Vide infra pages 52 & 56.)

In November and December 1682, our Bifhops prevailed fo far with
 our ftatemen, that they obtained a warrand from the Privy Counfell to
 depofe and filence all the tolerat minifters, who by connivance had
 preached ever fince the reftitution of Bifchops, without acknowledging
 them and ther governament; by which the Bifhop of Edinburgh depofed
 in his diocefe thir 5, Mr. Thomas Ramsay, minifter at Mordington, Mr.
 John Weitch at Wefttruther, Mr. John Macghie at Dirleton, Mr. John
 Sinclar at Ormifton, and Mr. Thomas Paterfon at Borthuick; and the Hy
 Trefurer gifted ther different efcheats to Hew Wallace, becaufe they had
 preached after the 1 of January 1682, without taking the Teft, contrare
 to the late aãt of Parliament. The reft of the Bifchops took the fame

course with any such in their bounds. They have not yet meddled to dispossess those ministers as were admitted by the Privy Council on the King's Indulgence; but we know not how long these few may be spared, seeing they are not excepted further of the act of the Test more than other ministers are.

On the 15 of December 1682, three men called Robison, Finlay, and Cochrane, were hanged at the Grass-mercato for disowning the King's authority, and calling him a tyrant, &c. (See more of this in my folio Law MS., at the 11 of December 1682, page .)

On the same 15 of December 1682, dyed Weymes Lord Bruntland, husband to the airies Countess of Weymes.

On the 20 of December, the Earle of Aberdeen, Chancellor, was installed Sheriff principal of Mid Lothian, by a letter from the King, in place of Dalhousie, lately dead, who was but entering to it in Halton's room; so that he is Sheriff both in Aberdeen and heir. (See the 8vo. Session MS. marked , page .)

About this time, dyed Sir Heneage Finch, Earle of Nottingham, p. 46. Lord Chancellor of England, aged 61, a man of great moderation and eloquence; and for the first quality the Court was beginning to weary of him. The Lord North, one of the Chief Justices of the Common Pleas, is made Lord Keeper of the Great Seal of England in his place; and Pemberton is translated to the Common Pleas, though less honorable, yet more lucrative; and the learned Sanders gets his place of Lord Chief Justice of the King's Bench. (Vide infra p. 51.)—In September 1683, North is created Earle of Guildford, and gets the title of Chancellor; and succeeds in this title of Guildford to Lauderdale, and Lady Jean Gray's husband, in Queen Marie of England's reign, who was headed.

On the 29 of December 1682, on Alexander Home, a small gentleman in the Merse, was hanged at Edinburgh (though in Christmas week, in imita-

tion of the Vicount Stafford, execut at London the same day in 1680,) for commanding a party at the insurrection of Bothwell-bridge, tho' he came not that lenient. He dyed more composedly and piously then others of them doe. It was thought, that there was blood enough shed on that quarrell already, and it being once stemmed it should not be set to bleed afresh: for they are like Sampson, they kill and persuade more at their death then they did in their life. And some Bishops interceding for him, (which was said to be but their common, he dying for their cause,) the Chancellor refused him a reprieve. He who apprehended him, seeing him condemned, dyed of grief.

ANNUS 1683.

THIS yeir began at Edinburgh with the imprifoning a great many merchands, &c. for not frequenting the Church, and for baptizing ther children by non-conformifts minifters, and for not paying ther fynes, fome of which ware 1000 merks. And this fruitlefse kind of perfecution (which, tho' it drove many of them to the church, yet compelled prayers are not worth, force making but hypocrites, and the church like a prifon houfe to them,) was alfo ufed at London at this fame tyme againft the Diffenters; only, it was remarked, that the Papifts and Quakers ware not troubled. (See Samuel Bold's Sermon againft Perfecution, befide me, on the French King's perfecuting the Proteftants ther.)

Tho' we change the governors, yet we find no change in the arbitrary government. For we are brought to that paffe we moft depend and court the Chancellor, Treafurer, and a few other great men and ther fervants, elfe we fhall have difficulty to get ather juftice or difpatch in our a&ions, or to fave ourfelves from fcaith, or being quarrelled on patched up, remot, and innocent grounds. This arbitrarie way Lauderdale attempted, but did not attain fo great a lenth in it as our ftatfmen doe now; and they value themfelves much in putting the military and ecclefiastick laws to ftrict and vigorous execution, fo that, let fouldiers commit as great malverfations and oppreffions as they please, right is not to be got againft them. Witneffe John Cheifly of Dalrye's ufage with Daver and Clerk, in the King's troupe; and Sir John Dalrymple's with Claverhoufe.

I confefse the obftinacy of theffe peepel who hitherto withdrew from the

Church, seems to have been from no principle of conscience which could bear the stroke of persecution when it came, but merely proceeded from this, that they saw they were connived at and unnoticed; and therefore, now we see, rather than pay any more fines, they crowd unto the Church; whereas, if hearing the present ministers were a sin, the fear of money should not alter the case with them, but so long as they could hear Conventicle preachers with safety they preferred them as the cleanliest. However, the Bishops and their followers, with the ministers, did not stick to reflect upon the former governors of our state, (meaning Rothes, Lauderdale, and Tuedale, &c., men whom they durst not once accuse when alive or in power, tho now cowardly they backbite them,) that by their connivance and remissness the Phanaticks were emboldened to desert the church and run to conventicles; whereas, now, they being governors of fidelity, knowledge, and courage, they give a seeming obedience to the laws; which flattery was designed by them to cry up the present Chancellor for his severity to the discontented party.

P. 47.

About this time, we had the news from Tangier, that Muley Hamet had got an army together in Fesse, against his uncle the Emperor of Morocco, who had seized upon and invaded his right of succession; and that he had defeated his uncle's army and killed him in battle, and was established Emperor.—The killing his uncle was afterwards reported as uncertain.

The King of Spain began the year with a sumptuary law, discharging any of his subjects to wear any cloathing or apparell, save what was made, and of the product of their own country. This frugality resembles our late Act of Manufactories in 1681.

This year we were alarmed with an strange conjunction was to befall in it, of the 2 planets, Saturne and Jupiter in Leo, observed by Argol and other Astronomers, and our prognosticators who all spoke of it as a thing very ominous, and which had only happened twice before, since the creation of the world, and portended great alterations in Europe. And from

England ther came some observations on the late comets, which promised a furdre treatise called Catastrophe Mundi; (see the observations besyde me,) all which helped to fright timorous melancholy peeple; and Mr. George Sinclar, the mathematician, did also call this planetary conjunction a very terrible on, in his Description of the weather glasse and hygroscope. Our winter, from November 1682 till March 1683, was rather like a spring for mildnes: if it be to be ascribed to this conjunction I know not. (Vide infra p. 55.)

Mr. John Meinzie, minister at Aberdeen, having been called by the Magistrats of Edinburgh, to be ther Profellor of Divinity, in place of Mr. Laurence Charteris, who refused the Test, and having come over to Edinburgh, the Bischop and he not agreeing, he refused to accept the call and went home. The reasons ware thought to be, That tacite restrictions ware required of him, not to preach zealously against Poperie, or ther plots and conspiracies against princes; 2^{do}. Some of the ministers of Edinburgh desire none of more learning or probity then themselves to be preachers with them. On Mr. John Strauchan is called by the Magistrats in his place.

In this moneth of Januar 1683, was discovered accidentally, by the removing some seats in the Church of Halirudhouse, the vault on the south-east end of the Church, wheir the body of King James the 5^t lyes buried. Skeen and others, in ther Chronologies of the Scots Kings, tell us, he was buried at Halirudhouse, but the lenth of tyme and negligence had worne the particular place out of the memory of men. It was knowen to be him by the inscription on his leaden coffin. I had the curiositie to goe and view the reli&ts of that gallant Prince. In the pend or cell ther are fix lead coffins. The first is King James the 5^t who dyed in the year 1542; P. 48. but Drummond of Hawthorndene, in the very end of his life, tells us, this is not the place wher he was first interred, but that King Henry the 8^t of England's army having defaced his tomb and monument, he was transported into this vault by King James the 6^t and reimbalded; which ap-

pears by the freschneffe of his body and the liquor about him. The second is his first Quean, Magdalen, daughter to Francis the 1st King of France, who dyed in 1537. The third is Henry, Lord Darnely, father to King James the 6th and Quean Marie's husband, who was strangled in 1567: by his body he appears to have been a very tall proper man; others call this bodie Seigneur David Rizio's, the Italian Musitian's. The 4th is Ladie Jean Stewart, bastard daughter to King James the 5th and Countesse of Argile, who dyed in 1587. The other 2 are some of their children.

This was a humbling mortifieng fight, and a great instance and document of mortality, and vanity of the world; all the glory of that sprightly Prince being crouded into this lowly cell, *Mors sceptris ligonibus æquat: Mors æquo pulsat pede pauperum tabernas Regumque turres: Et sic transit gloria mundi.* Many ordinary persons have better buriall places now, then what this magnanimous restles Prince hes got. If our thoughts descended ofter unto the charnel house and sepulchres of our ancestors, their dust (the greatest their not being distinguishable from the meanest, as Lucian in Dialogues wittillie represents,) would serve to lay the peacock feathers of our vain proud aspiring projects, which we lay in such a train as if we ware immortall. (See this prosecute alibi.) And it might have the same effect on us, which Virgil, (libro 4 Georgic.,) tells us, the sprinkling a little dust on bees hes, *Hi motus animorum atque hæc certamina tanta, Pulveris exigui jactu compressa quiescent.* All the inhabitants of that dark walley have lean and pale cheeks, hollow eyes, fallen noses, and none of them wear the jewells and other deckings, with which they glistred when they ware on life: but notwithstanding of this dissolution, we most all rise again at the great day of accounts. Our Kings of old ly but very meanly intombed. Buchanan names some of them buried in Icolmkill, wher are also lying some of the Kings of Ireland and Norroway. I saw the tombs of King Malcolme and others in Dumfermeling church yeard. The English have the most part of ther Kings inshrined at Westminster, wher I have seen ther monuments.

In the end of Januar 1683, dyed that unwearied statesman, at Amsterdam, S. Antony Ashley Couper, Earle of Shaftsbury, of the gout in his stomach, being a swelling ther, stopping the passages of digestion. His death afforded great joy to the Court party in England, against whom he had conjured up a male-contented spirit throw England. However, it cannot be denied, but within halfe a year on of another, dyed 2 great Ministers of State of opposite fydes, the Duke of Lauderdale and he, to whom we may adde for a 3rd, Chancellor Finch. Shaftsbury had so disseminat his principles, that the Earle of Effex, Lord Russell, and many others, are able to carry them on though he be gone; though some of that very party complained, he was too hot and insolent, though he studied to walk legally, that they might not reach his life.

On the 6th of Februar 1683, on Urre, a brewars servant in Leith, barbarously murdered his owne wife in the night tyme; all he pretended was, that he was provoked by hir scolding and drinking. The P. 49. Magistrats of Edinburgh judged him, which shews that their jurisdiction of shireffship reaches over Leith; and he having confessed the fact, they sentenced his right hand to be cut of, and himselfe to be hanged on the 10 of Februar, on the Shiref brae beside Leith bridge, on the very confines betuen the Towne's territories and the Shire's. (See Carpzovius' Criminals, part page , shewing, a gibbet should not be so erected *in confinio* as that the shadow should reach another's land, that being a kind of indignity to him.)

In this moneth of Februar 1683, was argued before the Judges the case of the city of London's Charter of franchises by the Quo Warranto writ; (de quo, vide supra, page 29 & 36.) That of ther right of shireffship was at this tyme waved, seeing his Majesty had carried the shirefs to his mind; but the debate ran on 2 points, primo, that the city had, att her owne hand, without authority of Parliament, levied and raised money upon the citizens, for caulday mails, and for liberty of getting out stalls, and for selling their

waires and commodities in the mercat places of the citie (called by our Skeen *pede-pulverosi* and *stallangiatores* chapmen) on the streets; secundo, for presuming by a petition to incroach so far upon his Majesties prerogative, as to advise him to call a Parliament, after he had discharged thesse petitions as seditious. Sir George Treby, recorder for the city, answered the King's Attorney, that, tyme out of mind, London had bein a free corporation, with power to make statutes and by laws for regulation of themselves; and that any exactions they used were fortified with immemoriall possession; and to the 2^d it was only a supplication, and if ther ware any fault in it, it could not involve any others but the actors into the guilt, for *noxæ caput sequitur*; and the franchises of the city could not be indangered by it. Though the Cheiff Justice Sanders seemed not fully satisfiied with thir defences, yet the matter was continued till Easter terme. (See page 51 infra.) And in another case, it being objected against the Jurie for the toun of Worcester that fundry of them ware not capable, because not freeholders; the judges admitted them leift ther should be a failance of administration of justice in that place for laik of freeholders, and therfor *in subsidium* they admitted others in ther place.

The English Dissenters craving a writ of appellation from the Ecclesiastick Court of Arches, wher they ware threatening to excommunicat them, the appeal was refused.

About this tyme, the river of Thames at London flowed tuife in a fornoon, and swelled to a prodigious height: this was esteemed ominous, for the like had not been observed save a litle before King James the 6th death in 1625. God preserve long our King! Ther was likewayes a great inundation happened at Harwich, drouning a part of the adjacent country; as also thunder and lightning, which is not frequent in winter, which had fyled the steeples of Yarmouth and York. 3th. And a serving man at Darlinton, in some distracted fitt, killed 3 of his master's children, the eldest being about 15 years of age; and being apprehended, refused to eat

or drink. 4^{to}. At this tyme on Le Maitre, a citizen of Paris, borne in 1565, and so 118 years old, dyed at Paris, and was a few weeks before very P. 51. healthful and vigorous. Nature once in ane age produces such ane on, but 100,000's ly by the way. (See Hackwell's Apologie for the Providence of God, page ; and our Buchanan, page 40, libro primo in fine, Hiftoriae Scotorum, of our old Lawrentius going out in his fischer boat and leather canno at 140 ; and Par, brought up to London to (King Henry the 8th) Charles the 1st. See Baker's Chronicle, page 475 ; Plinij Naturalis Hiftor. libro 7, cap. 48.)

On the 2^d of March 1683, dyed Maxuel, Earle of Nithsdale, a papift.

About the same tyme, on Shelden discovered to the Duke of Ormond that he and others ware pensioners to Monsieur Louvoy, the great French minister of state ; and that the plot was to deliver up some sea townes in Ireland to the King of France's fleet, which he pretended he was fitting out against the Algerines.

5^{to}. Aprilis 1683. The Duke of Lauderdale is buried. (Vide supra, page 40, in margine.) The Bishop of Edinburgh (who was once his creature, but follows all courts,) preached the sermon at Inveresk ; the text was 1 Corinthe. 15, v. 55. "O death where is thy sting ; O grave where is thy victory." Any errors he committed, in the end of his days, he ascribed to the *vampires* underrowers whom he trusted beneath him, meaning his Dutchesse and brother Halton. If he had dyed some years sooner he had got more pomp and elogies. At the buriall place in Haddington, one of the beggars called Bell, being drunk, stabbed another in distributing the money that was given them by the friends. He was apprehended, and several stollen things found on him, and he being made to touch the dead corps, the wound bled fresh ; the toun of Haddington, (who it seimes have a Shireff's power) judged him presently, and hanged him over the bridge the next day.

In May thereafter, came doune his Majesties pleasure and determina-

tion anent my Lord Halton and other officers of the mint; (which see in my law manuscript, page .)

On the 13 of April, was his Majesties letter proclaimed as to thoffe who had converfed with rebells, diftinguifhing them into three ranks and claffes of delinquents. 1^o. Conversers wittingly and wilfully with forfault or denounced rebells. 2^{do}. Conversers with them by a chance or accident. 3^{tio}. Conversers with fuch as are notourly knowen to have been in the rebellion, but are nather yet forfault denounced fugitives nor intercommuned: —And the punifhments determined according to the degrees of ther guilt; and the 2 laft are referred to the Privy Counfell, and the first to the Justice or Circuit Court, which is to goe throw the Western fhires in June nixt. (See, anent the point of converfing, the Laird of Blaikwood's proces, in my folio law manuscript, marked , at the 31 day of Januar and 5 of Februar 1683, page .) The King was willing to have granted a large indemnity; but the Chancellor thought fuch a favour unseasonable, and ftopped it by fending up Claverhouse, who maintained that theffe indemnities imboldned them and did ill. Though they did not care much for citing Lauderdale's authority, yet they told the King what he faid to Dundonald, regrating the depopulating the West by the Hyland hoft in 1678, "It was better ther country boor windlestraws and fandy laverocks then boor rebells againft the King."

In the end of April 1683, dyed Dalyell, Earl of Carnwath.

In May 1683, the Lord major of London having perfhued thoffe who laft year elected Papillion and Du Bois as fhireffs. The perfons mainly perfhued and fyned (but many of them fled,) ware, the Lord Gray, Shut, P. 51. Pilkington, Bethel, Cornifh, Waird, &c. Cheiff Justice Sir Edmund Saunders, and his brethren the Judges, found, that by præcedents the mair of London was in ufe to call and diffolve the city counfell without the fhireff's confents, and fo the electors and voters to Du Bois and Papillion ware ryoters and guilty of difobeying the mayr's adjournement, and

theirby ware liable in a fyne for the ryot; which decifion did much break the wings of that faction in the city, and was a point of great importance to the King, and which led the way to what he obtained againft them afterwards. They urged, that a precedent might be given of his continuing prorogueing or adjourning the court. The Lord Cheiff Juftice answered, that he who could diffolve, (which was the greater power) could not but by a confequentiall ftronger argument, have the leffer allowed him of continuing.

After this, Sir Patience Ward, late lord major of London, is perfuaded and found guilty of perjurie, on this ground, that it was proved againft him, at on tyme he fwore, he heard not Alderman Pilkington (of whom fupra, page) affert the Duke of York brunt the city of London, and yet at another tyme he had confeffed, that when Pilkington uttered thefe words in his prefence, he put his hand on Pilkington's mouth, and faid, "Brother, you mean not the Duke fyred the city, but that Frenchman." Such an extrajudiciall expreffion with us would not infer perjurie, but the Englifh punifhment of it is eafier then ours is.

In 3 June 1683, the famous plea of the Quo Warranto againft the city of London's charter, was decided by the Judges againft them, and they found to have forfeited and loft their priviledges of a corporation and fociety. But on ane addrefle from the Mair and the loyall part of them, the King declared, he would grant them a new charter, with this claufe, that if, after 2 nominations, made by them he fhould not be fatisfyed therewith, in that cafe he fhould name and choife ther fheriffs and all ther other officers and governors; to which regulation they at laft affented and acquiefced: See all this in printed papers befide me. (Vide fupra, pag. 49.) And after this bold decifion, Judge Saunders ftepped of fhortlie after, by death, to appear and give ane account at a greater tribunall. (See him admitted, fupra page 46.) In Saunders' place, the King puts in Sir George Jefferies to be Lord Cheiff Juftice; and on Pemberton's depriveall he put in on Jonas. Pemberton turned a common pleader again.

The airs of the founders of Gresham Colledge ware now moving to be reponed to the rents, as caduciar, the Society being diffolved; but it was thought they fell to the King. In October 1683, because their tounne counsell would not signe the instrument of surrender and resignation of ther priviledges to the King to get a new charter with limited franchises, theirfor the King entred and past the judgement of forfaultor of ther charter against them, and named all ther magistrats himselfe, and continued Prichard mair during his pleasure. It's said, they might not voluntarily resigne for fear of becoming lyable for all the mortifications made to the city: now it is like on of our brughs of baronies. Then he named Sir Henrie Tulfe for mair.

In the beginning of June 1683, Gordon of Earleston, on who was forfaulted for being at Bothuel-bridge rebellion, is apprehended at Newcastle, with on Edward Aitkin, both going beyond seas, and they are sent doune by his Majesties speciall warrand to Scotland to be judged their. They ware going abroad to the forrain Protestant princes, in a commiffion from some of the præcise phanaticks of that fyde to beg supply, as being beggered by our governors, who ware all become ather Papists or Athiefts.

About this fame tyme, Andrew Gulan, weiver in Balmerino, on who was present at the murder of the late Archbisshop of St. Andrews, was apprehended at Cockpen; and was execute for it on the 13 of July, and dyed very hardned and insensible of any guilt. (See my law manuscript at that day.)

On the 8th of June 1683, while the Circuit Court was fitting at Stirling, and 5 of the King's guard ware conveying on Smith, a phanatick, prisoner to Glasgow, 7 of that mad perswasion waylays them beyond Kil-
 P. 52. fyth, at Auchinrooch Inchbellie bridge, and rescues the prisoner, and kills David Murray, on of the party attending him, and wounds John Ballyntine, another of them. Tuo Lefmahaigo men, called Macquhirrie and

Smith, were seized upon, in Stevinson wood, upon a suspicion of their accession; and, being of the number, were hanged at Glasgow for this and other crimes made out on them, the 13 of June 1683. (See my law MS. at that day.)

In June and July, went the criminal Lords in Circuit throw the Western and Southern shires. (See it at length alibi, in my law MS., and *supra* page 50.)

In the beginning of this spring, Mahomet the 4^t, Emperor of the Turks, emitted a blasphemous declaration of war against the Emperor of Germany; (which see in print.) The Turk did commit great cruelties at this time, and besieged Vienna: (*vide infra*, p. 56, *supra* p. 45.) ;

In June, the rumor began of Prince George, brother to the King of Denmark, his marriage of Lady Anne, daughter to his Royal Highness. Sheffield, the Earle of Mulgrave was banished the English Court for pretending kindness to him. They were married on the 28 of July 1683; and Prince George was made a knight of the Garter thereafter.

About the 11 of June 1683, broke out that plot and conspiracy, attempted by Colonel Rumfay and some republican 5^t Monarchy men, against his Majesty and his brother. But afterwards, it was found, that it was deeper laid; for, upon the coming of on Keeling upon remorse, and the apprehension of the Lord Howard of Escrick, he discovered, that it was managed by greater persons, and that, after Shaftesbury's flying, there was a council of six established for promoting it, viz. the Duke of Monmouth, the Lord Ford Gray, the Lord Russell, Sir Thomas Armstrong, Colonel Algiron Sidney, Mr. Hampden younger, and my Lord Howard himselfe. (The King has given Keeling a remission.) The designe appears to have been to prosecute the association to disappoint the Duke of York's succeeding to the King, and to assault the King's guards, and then to have made themselves masters of the King's person, not to kill him, but to necessitate him to call a Parliament, enact what they craved, declare

his brother a traitor, and simply to give himselfe up to ther counsellis and directions. Yet it may be feared, they would no more have stopp'd heir then with his Father, his prison and grave ware near other, and they dare not trust a disoblidged prince. Then Mr. West, a lawyer, Mr. Sheepheard, the vintner, came in, with many others, and boor witnesse to the reality of this plot. The Lord Gray was apprehended, and while on Serjeant Deerham carried him in coach to the Tower, Deerham, wearied, falling fast asleep, Gray made his escape, and fled with his concubine to Holland; Deerham was theirupon thrust into the dungeon. Monmouth also fled. The King's warrant to search Monmouth's house excepted his Dutcheffes bed-chamber, so he might be hid ther. Some alledge, he had a discourse on the plot with the King, and had his allowance; however, he wrote a letter back to the King abominating the plot, and protesting his innocency; but the yaught and Captain who transported him to Holland ware both seized on. The Lord Russell was found hiding himselfe behind a chimley portrait, in a void place above the chimley, and by thrusting a sword throw it accidentally, was discovered. Captain Walcot, John Rouse, and Hone, 3 of the conspirators, was hanged at Tyburne, the 20 of July; and the Lord Russell was headed the next day at Lincoln's Inn feilds. (Vide supra, p. 25, anent Rouse.) See ther tryall, with the probation led against them, and ther confessions and speeches, and animadversions on Russell's speech;—our Doctor Burnet having been quæstioned as the author and penner of it, to move sedition, and doubtings in the spirits of the people if this plot was a sham or reall.

The Earle of Effex was affirmed feloniously (as *felo de se*) to have cutt his owne throat, while he was prisoner in the Tower, to preserve his estate to his son, and to shun the ignominious conviction of a traitor. Yet others thought it very hard to believe such a cowardly villany of such a gallant man, and seimed to find inconsistencies in the P. 53. narrative of his servant Paul Bomeny, and the 2 chirurgians; and thought

the naturall averſation and reluſtancy could not have ſuffered any to have cut ther throat as his was, viz. from the jugular to the other, throw the windpipe, till the razor almoſt ſtuck on the vertebræ, the back bones of the neck, which could ſcarce be done without help. This Effex was a very gallant man, and the ſon of the Lord Capell, who ſuffered death for the King in 1648; yea our King truſted this Effex with the Governement of Ireland, as Deputy, 3 years, and put him in many other places of truſt. His Lady hes raifed an action of Scandalum Magnatum againſt Bomeny and the Chirurgians witneſſes, to prove that his throat was cut by others; and that, in defence of his throat, he had put up his hands, and they had mangled and cut them. (See a note alibi of Ferguſſon's book, vindicating Effex from this crime by laying it on others.)

In Februar 1684, Laurence Braddon and Hew Speak wes proceſſt and tryed for tampering with witneſſes to depone that Effex' throat was cut by others; and alſo Sir Samuel Barnardifton, for reviling and vilifieng the Proteſtant plot, and the King's evidences as if it ware a forgerie by his letters; but Captain Blaque was abſolved from the accuſation againſt him of a deſigne to feize on the Tower of London. (See this at more lenth in the 4^{to}. MS. marked A 3, page 100, item pag. ultima.)

Some judged it ridiculous and incredible, that men who ware uſing all means to deprive the Duke of York of the croun, would ever open a fair door to his ſucceſſion by killing the King; but thoſſe who deſigned his death ware certainly for a Commonwealth, and nather for ſetting up on Duke nor another, for ſome had named the Duke of Buckingham as a fit perſon to ſucceed. All the guilt that can be charged on Ruſſell, if we beleeve his oun ſpeech, was, that he had the miſfortune to be preſent in company wher Shaftsbury, and ſome hot headed men treaſonably propoſed the feizing on the King's guards; and tho he and Monmouth abſolutely diſapproved of it, yet they ware guilty of miſprifion of treaſon in concealing and not revealing it, which revealing, Ruſſell ſayes, would have

been a meannesse in him, especially seeing he had dissuaded (prevailed with) them from executing these designs. But with us, that concealment is treason and death; tho, it was alledged, it was not capitall by the English law, yet the printed Animadverter on his speech seems to give 2 instances in the contrary, and farther charges Russell with perjury, who, as a member of the House of Commons, had oft taken the oath to detect any conspiracy against the King and the State, and yet he had kept up this till it was proven on him. The Earle of Bedford, his old father, offered the King £100,000 sterling to spare his son's life, but York would have him to fall a sacrifice to appease Stafford the popish lord's ghost, and to expiate for his bringing up the bill of seclusion to the Lords house against him.

The great part of Bedford's estate was the lands of the dissolved Abbacy of Tavestocke, gifted them by King Henrie the 8th in 1542. So Russell had some interest to oppose Popery.

We in Scotland ware not behind in emitting proclamations to apprehend Monmouth, Gray, Armstrong, Fergusson the Scots minister, and other conspirators, and to put a price on them. And it was deponed (affirmed) in England, that Sir Hew Campbell of Cessnock elder and younger, Bailzie of Jerefwod, the Lord Melvill, Sir John Cochrane, Major Alexander Munro, late clerk, the late Earle of Argile, and others Scots, ware upon the knowledge of this conspiracy, and that on Aaron Smith was sent to Scotland, under the pretence of Carolina plantation, to negotiate the plot; only it was doubted, if the sentence of forfauler of ane English judge could confiscat ther lands lying in Scotland, ane independent nation; and it was thought, tho' they might execut them to death ther, and so ther moveable escheat would follow their person, and the *locus delicti commissi*, the King being æqually King of both, yet ther sentences *quoad* lands situat in Scotland would be *ultra vires, et extra territorium jus dicere*, unless the King personallly assumed the judicative power, and sentenced them; wheirupon it was desired, they might be transmitted with 2 pregnant evidences

(which would be no great expence to Scotland) to be tryed heir. *Quæritur*, If a Scotsman tryed in England gets a *medietatem linguæ* as a stranger alien, or by the law of *postnati*, he be repute a denizen?

Many addressees came thronging in to the King, from various places, congratulating his preservation from this hellish plot. But that *Censura* and decree by the congregation of the Univerfity of Oxford was the moft remarkable, wheir they condemn 27 pofitions they had extracted out of Knox, Buchanan, Naphtali, Jus Populi Vindicatum, Hobs, &c. againft government, and that if princes malverfe, the peeple may depofe them, and can put by the neareft lineall air, and fet up on remoter; and ordained theffe books to be brunt as feditious, in the court of ther Theater. (See the many papers that ware published on the occafion of P. 54. this plot befide me, in my 31 bundle marked with that figure.) Some made a parallell betuixt this plot and the late Popifh on, and thought this was more convincingly made out by the confeffions of the parties condemned, (tho' they faid they ware trepaned and betrayed by Rumfay and others, who ware alwayes more forward in the plot then they, and who infligated them to it, and yet went firft and difcovered it, and got ther oune life by turning witneffes and evidences againft them; and they infinated as much as if they might have been only hounden out by fome, (which was Cromvell's ordinar trick) to decoy, intrap, and infnare them, by propofing the treacherous overtures firft, and then feeing who would join with them;) but as for the 17 who ware execute for Titus Oats's plot, never on of them at ther death acknowledged it, tho' we fay the Popifh principles bound them up from that ingenuity; and that the fubftance of this confpiracy is ten tymes more clearly and undenyablie made appear then the other was by Coleman's letter or Edmundfberry Godfrey's death, at which fome laugh now, as Shaftfburie's fables maliciously contrived by him: but this ware to caft a reflection on the publick juftice of the Englifh nation, whoffe representatives, viz. the King, Houfe of Peers, and Lower Houfe,

did all declare they were fullie satisfied as to the existence of the said Popish plot. Some wondered, how Oats came not to be named on this new plot. But others answered, tho' they had made use of him as a tool, yet they knew him to be so profligate that they durst not trust him with their secrets. When the Duke of York was persuading the King to ride with a stronger guard for fear of being assaulted, he took him short thus, "James, is there any in England who will kill me to make you King?" yet he was induced to suffer all the keys and locks of his chambers at Whythall to be changed, and that none should have access thither but persons of known loyalty; and 100 gentlemen of great estates offered themselves voluntarily to be his additional guard. There is a report spread through Britain as if the deceased George Monck, Duke of Albemarle (who brought home his Majesty) had, about 1669, a dream, that Whythall was all on fire, and the King in the midst of the flames, and that in a fear he came and found the King in the Queen's chapel at Mass or popish service, about 12 o'clock at night; which I hope was false. Many of the conspirators upon the detection fled to Holland; but the King, among the articles of peace with the Hollanders, (which they never yielded before) they condescended to this, that they would deliver up to him any of his subjects in their dominions he should require from them; but the States generously gave them fair advertisement to remove in time out of their territories. (See more of this plot, *infra*, page 57.)

If a man consider the tract of this conspiracy, with the King's own declaration against it, and the antidote against the poison of my Lord Russell's speech, (which looks like Roger L'Estrange's pen,) it is very evident, that there has been two plots carrying on in England at the same time, the one not being upon the secret or foreknowledge of the other:—the one was by Walcot, Hone, and other mean 5th Monarchie republicans, to murder the King and the Duke, and set up a Commonwealth; the other by the great nobles, &c. to possess themselves of the King, and move him

to disinherite his brother, and to follow ther counfels, but noways to kill the King; and they miftake things who mingle the 2 plots together as both carried on by the fame perfons. This minds me of Venner, the cooper, and them other 5⁴ Monarchy men, who made a desperat rebellion, in 1661, and dyed on the place. (See Baker's Chronicle in fine.)

The Bifhop of Durham being dead, the Bifhop of Rotcheſter was tranſlated thither, and Doct^r Turner (who was in Scotland with the Duke of P. 55. York, and whom I heard preach their,) was made Bifhop of Rotcheſter: So the Duke's recommendation puts in whom he pleaſes.

Elcana Setle (who had been the great Whig poet, with Tom Shadwell, for the Shaftsberry diſcontented party, and answered Dryden's Abſolon and Achitophell,) turned, a litle before this plot was diſcovered, his cloak on the other ſhoulder, and printed a narrative to the diſparadgement and vilifieing of Titus Oats's plot; (which ſee alibi.)

The Duke of York was extreemly pleaſed with the tyming of the Scots Circuit court in June and Julie; for Providence had ſo ordered it, that the infurrection in Scotland and England was deſigned much to have been about the ſame tyme; but this Circuit frighted the conſpirators from their oune houſes and lands, which, eventually, by meer accident, broke their ſquares and meaſures, as he thought, and incapacitated them from riſing. Tho they could not directly reach D. G. Burnet, yet the Bifhop of London took upon him to ſuſpend and exauthorat him from his being lecturer at St. Clements, wher he preached to the keipers of the Rolls; and he, finding it ſafeſt to withdraw, did obtain liberty from his Majeſty to goe abroad, ſo he hes laid aſyde his clerical habit, and put on gray cloaths.

It's reported, that a fervant of Sheephard the vintner, on of the witneſſes who depones, in this plot, did drefſe himſelfe up in the habit of a ſpirit, and appeared to the centinells, telling, he was the Lord Ruffell's gholt, and was come to informe the world that the ſpeech printed in his name, was but put in his hands when he came to the ſcaffold, and that

he was abused in it;—thus thinking to impose on the belief of men, if he had disappeared undiscovered, but some of the guards seized on this spirit, and finding it a cheat, beat him soundly.

In the end of July, dyed the Queen of France, of a pestilentiall botch; and within ane moneth thereafter, dyed the great Monsieur Colbert, a Scotsman by descent) who had been long superintendant of his finances; but immediately on his death he is so far buried in oblivion, that his sone Blanville is turned of by the King, who gives it Louvoy, he paying 50,000 crowns to Blanville. The French King also, hearing that ane English mathematician and astrologer, called John Holwell, had printed a book called “Catastrophe Mundi,” with sundry hieroglyphicall figures of moles, lyons, dragons, wolfs, crowns, miters, dead men in coffins, fyres, fights, ships, &c. wherein he had prophesied woes to fall on Gemini, by which he means London, &c.; but what offended him was, that he had foretold severall unlucky things that ware to befall the French King in 1683, and thereafter, if he should outlive that year. Upon which application⁽¹⁾ he was imprisoned long. (See a litle abridgement of his dreams beyde me in print.) Some say, thir prophets are like him who foretold Paris should be brunt such a tyme, and on the day was found setting fyre to that city, that he might not be a false prophet; so they, to hinder ther prædictions from falling to the ground, doe use means to compass them, and would after throw the blame of it on others; the Papists and Protestants mutually charging on another with plottings. They say, the hieroglyphicks are as old as Nostradamus, 120 years since, and ware reprinted by old Lillie the prognosticator in 1651, whereof copies can be shoven since that tyme.

The 9th of September 1683, was appointed a thanksgiving (being a Sabbath day, to oblige all to come to sermon,) for discovering this phanaticall plot:—a fast was enjoined on the detection of Oats his Popish plot.

⁽¹⁾ Some words are evidently omitted in the former sentence, in regard to this complaint or application, which was the occasion of Holwell's imprisonment.

In the beginning of September 1683, on Mr. John Dick, a Carguillian, was apprehended; and owning all theſe pernicious principles againſt the King, he was ſentenced to be hanged; but for his father, David Dick's ſake, they gave him the longer tyme to prepare himſelfe. See it in my law MS. 3rd. September 1683, p. , wher you'll find, he and others broke priſon and eſcaped; but was afterwards retaken and execute.

Their is ane a^ct of Privy Counſell made at this tyme in England, anent P. 56. the Letter Poſt Office, in favors of his Royall Hynesse, to whom the profit of it belongs; that heirafter no letter be carried but by the poſt, and if any be ſent by carriers or private perſons, that they be unſealled:—this is *primo*, done to augment the revenues of the Poſt Office; 2^{do}, to prevent falſe and ſeditious news.

I ſaw this ſummer a litle printed pamphlet, dedicat to the King, teaching the art of ſtraining, boiling, and ſueiting ſalt waters, very uſeful for ſhips in ther long voyages at ſea: it is invented by Mr. Boyll and others.

In September 1683, came doune his Majeſties letter recommending George Drummond to be Proveſt of Edinburgh, againſt Rocheid's party, who ware under proces of count and reckoning. (See this at large alibi.)

On the 2^d of September 1683, was Vienna releived, which was inveſted by the Turkiſh Army. It had been 2 moneths and more cloſely beſeidged by Cara Muſtapha Baſſa, the grand Viſier, (whoſſe father and himſelf have been both eminent favorits of the Grand Seigneur, which is not uſual,) with ane army of 150,000 Turks, by the ſpace of 2 moneths and more; wheirin they had ſprung many mines, bombs, and granards, and once maſtered the Scottiſh port, (ſo called from a monaſtery there founded by Scotſmen, and wheiſof the foundation required Scotſmen to be abbots,) ſtanding near the river Vien, which falls into the great river of Danube, and from it the city gets its denomination, (it was of old called Fabian;) but the Count Starenberg, a Suede, defended it with great courage and manhood, till the very laſt extremity of famine, the bloody flux, and dimi-

nution of their garrison. At last the Christian army, commanded by the Duke of Lorraine as general, the King of Poland, and Prince James Sobietkzi, his eldest son, a boy of 15 years old, and by the Dukes Electors of Bavaria and Saxony, did assault the Ottoman forces and defeated them, taking 120 canon, their rich tents, and sundry horse-tails on poles, which are the Turkish standards; and the Polish Hussars, whose horses are armed as well as themselves, killed many of the Turkish Janizaries and got a considerable victory over them, killing their infantry and putting their cavalry to flight.

Thanks were given by the Emperor and others, in the cathedral church of St. Stevin of Vienna, to God, and the *Te Deum Laudamus* sung, and the Turkish captives put to repair the breaches made in the walls. The spoil taken was very rich, and yet got with small loss to the Christians, by the great providence of God, their not being above 1000 of them killed, and few of them of note, except our countryman young Count Lesly, and the Duke of Croÿ's brother. It was observed, in favor of Count Tekely the Hungarian, who, with the French King, had invited the Turk in to this invasion, that he kept himself as free of giving the Emperor any new provocations, and did not join or assist the Turks at this battle; so that it's hoped by some, that the King of Pole and others may intercede to make his peace with the Emperor of Germany, by obtaining to him and his party the free exercise of the Protestant religion, the denying whereof and banishing their ministers to the galleys, and using other cruelties by the Emperor, who is absolutely prepossessed by the sanguinary Jesuits, did drive them to shelter themselves under the great Turk, who, for 30 pence a year, gave them the free exercise of their religion. It's thought, the Grand Vizier may get a bowstring for the reward of his bad success, according to their custom; however, he began with Ibrahim Bassa, Vizier of Buda, and strangled him, for his first running away cowardly the day of the fight. Jablonowsky, Palatin of Russia, and Great Marshall of

Pole, distinguished himselfe signally by his valour in this battell. (See the P. 57. 3 fundry printed relations of this victory belyde me.) This is the 2nd tyme the Turk hes attempted Vienna, without successe: the first was, in the reign of Charles the 5th Emperor of Germany, in 1529, when the brave Sultan Solyman the Magnificent, came against with 300,000 men, and was forced to goe home *re infecta* and break his heart for greiff. (See it in the historians of thesse tymes, and particularly in Sebastiani Munsteri Cosmographia, in his description of Germany, page 315 and 970, and in D'Avities World, cap. de l'Allemaigne, p. 883, and others.)

The Vizier retired with his army in great method and order, and the King of Pole, knowing the usuall advantages the Turks get of the Christians is commonly when they prosecute ther victories too far, and so being of all guard, the Turks rally again and so defeats them, he resolved to stand to his posture and to follow them but leasurly; and the breaking this his owne rule, had almost cost him and his litle son Prince Alexander, a boy only of 15 years of age, (who would signalize himselfe by being in this glorious action,) ther lives, had not the Duke of Lorrain come up in tyme to ther rescue. However, they cut of many of the Turks rear, and defeat Count Tekely and Michael Abaffi, Prince of Transilvania, (see his declaration of war, in French and English, belyde me printed,) and 2000 of his forces, and drove him to the mountainous tounes. Then the King of Pole took Grana, (a tounes which hes been 78 years in the Turks possession,) and Zetchin, and fundry other places, by surrendrie; and besieged and blocked up Newhaussell, Belgrade, (the old Strigonium,) and Buda, the capital and metropolis of Pannonia or Hungarie, hoping they will fall in ther hands the next Campagne. But the Grand Seignieur received his Visier graciously, and threatens to return in the spring in person on the head of 300,000 men, and siew Vienna with salt. On this consternation the Turks ware in, many of the Greek slaves in Moldavia, Valachia, &c. revolted from the Turks, and fell in upon his countries, and carried away much spoill. (Vide infra pag. 62 & 64.)

Our Scots Parliament, by miftake, forgot to be prorogued at this tyme : its now done, which may leive ground to fome to cavill. (See more of this alibi, in the law MS. 16 Auguft 1683.)

Supra page et feq. we fee a new plot burft furth : when the terme fat doune in O&tober 1683, the Judges being returned from ther circuit, Aaron Smith, (who was alledged to have been fent doune to Scotland, to flir up our difcontents to joyne with them in armes,) is brought to the bar, and in regard they wanted probation to make him on this treafonable plot, they goe back 3 or 4 years, and accufe him for feditious words he uttered at Oxford, as ane attorney for Steven Colledge, the proteftant joyner, who was tried and hanged ther ; and for this Aaron is fet on the pillory and fyned.

On the 1 of November, the Scots prifoners, to the number of 12 or 13, ware embarqued on the Kitchen yacht and fent to Scotland ; wher, after much tempeft and toffing, they arrived on the 14 : ther names ware, Sir George [Hugh] Campbell of Cefnock, and his fone, Muir of Rowallan, and his fone, and Fairly of Bruntffeild, his fon-in-law, Bailzie of Jerrefwood, [Crawfurd] of Crawfurdland, Alexander Munro of Bearcrofts, Murray of Tippermuir, Mr. William Spence, late fervant to Argile, Mr. John [William] Carftairs, and Hepburn, minifters. On ther arrivall they ware keiped cloffe prifoners in the tolbuith of Edinburgh ; only fome of them ware confronted with Gordon of Earleifton, but no difcovery could be gathered theirby.

On the 5^t of November 1683, by our Bifchops and Statefmen to gratify the Duke of York, the commemoration of the Gunpowder plot was omitted. Some of the modefter pretending meer forgetfulnes why nather fermon was keiped nor cannons fhot, as ufed always to be, (tho' the magiftrats did ther part in ringing ther bells and putting on fome bonefyres ;) others, more impudent, laid ther was no a& of Parliament for obferving
 P. 58. the 5^t of November, as was for the 3rd. of Auguft of Gourie's confpiracy (yet ther was ane a& of Privy Counfell for it, and ane continued practife,

since,) and that theſe providences ought not to be ſolemnely remembred longer then the life of the Prince who got them.

In November 1683, Algernoon Sidney, ſon to the Earle of Leiceſter, and allyed with the beſt of England, was brought to his tryall for his acceſſion to the late phanatick conſpiracy; and on the teſtimonies of Rumſay, Keeling, Howard, &c. was found guilty. Beſide the plot, he was charged with a treaſonable pamphlet found in his cabinet, proving the people to be above ther Kings, and ſtating in them a power of depoſing princes in caſe of ther miſgovernment;—it was proven by ſeveralls, who had traded with him and produced his letters, that they verily beleived it was all his oune hand writ; however, I hear this probation, *comparatione literarum*, is not concluding nor convincing by the Engliſh law, not even in civill caſes, much leſſe in capitall ones; which is alſo Antonius Faber's opinion in his Codex Sabaudus, titulo de Probationibus, definitione 71. (See S. G. M'Keinzie's criminalls, p. 524, &c.) He ſpoke very learnedly for himſelfe, and alledged, ther ware not 2 witneſſes proving on ouvert act; he was minded this was repelled in the Viſcount Stafford's proces in 1680. Then he objected, that many of the Jury ware not freeholders; they deſired him to remember that was overruled in Ruſſell's caſe lately. Then he objected the Indytment abated, and had falſe Latin in it, and wanted the King's title *fidei defenſoris*, &c. Thir ware repelled, unleſſe he would wenter his life on thir, and renunce all other defences, that the King's Attorney Generall might demurre to this plea, and be fred (according to ther cuſtome) of leading any probation againſt him. When the Duke of Monmouth returned, (*de quo infra*,) he moved for a new hearing; but he having been found guilty by the Jury before, they denied it: wheiron he was ſentenced and headed at the Towerhill on the 7 December 1683, Shireff Daniel attending him. He ſpoke litle or nothing on the ſcaffold, but gave a paper, and ſeemed very unconcerned at death, like the ancient Romans. The Whig party hoped his life ſhould have been ſpared, but

tho' he was a gallant man, yet he had been so misfortunat as ever to be on the disloyall fyde, and feimed to have drunk in with his milk republican principles, and was a Collonell against King Charles the 1st, and continued a sworn ennemy to monarchy, which justified the taking of his life very much: see his Speech.

On the 24 November 1683, to the great surprize of all the English Court and the Ile of Brittain, the Duke of Monmouth came in, and put himselfe on the King his father's mercie, and confessed his faults; and so was graciously receaved, and got a pardon and remission. The summons of treason against Monmouth, Lord Melvill, Stairs, &c. was newly sent away to London, by our statemen, to get them forfaitured heir, when this reverse of fortune met it in the teeth. The widow of Tekoa, who brought home our Absolon, was thought to be the King's French concubine, the Dutchesse of Portsmouth, formerly Madamoisselle de Carowelle. The Duke of York, finding her under pension of his contrare party, and that by hir they got access to the King, he takes occasion, upon her absence in France this summer, to suggest to the King that shee was dishonest with the Bishop of Paris, and Monsieur le grand Prieur de France. On her returne, finding the King somewhat alienat from hir, but, soon making her peace again, and considering none in England durst play her that trick but the Duke of York, and feeling the King's inclinations to restore and pardon his Sones simplicity in being misled, and to secure him from the hazard of his life, shee joyns with the Marquis of Hallifax and Earle of Mecklesfeild, (who insinuat to the King that his brother was more courted and attended than himselfe,) and they prevail with the King to allow Monmouth to return to his presence. Upon which, immediately all these who ware in prison for this late plot, as Trenchard, Hampden, are all set at liberty upon bayll; which did so blow up the Whig party with hopes, that they began to insult, which partly necessi-

P. 59. tated the Court to take Sidnie's head, (least, by sparing him, all men would

have concluded, it had been only a sham plot,) and gave occasion to the Duke of York and his party to desire the King to require the Duke of Monmouth to publish and print a declaration, or manifesto under his hand, of his knowledge of the circumstances of that late plot, as he had confessed it before the King and his Secretaries at his first coming. Monmouth, finding this was but a trap and snare digged for him by York to rise in judgement against him (notwithstanding his remission) when any thing should ail the King, he refuses; whereon his Majestie, being afraid that the countenancing his Sone might breed new troubles, and embolden that party, and thinking he had fully insured his life, to dash that faction, which was reviving again, he banisheth him his presence, and confines him to More park and 5 miles about it. I heard some alledge, that the Duke of Monmouth's coming doune as Generall, in 1679, against our rebels at Bothwell-bridge, was ane artifice and stratagem of York's to draw him under the *premunire* of ane English act of Parliament, made in 1643, and yet standing unrepealed, declaring it hy treason to invade the Kingdome of Scotland without the authority of the Parliament of England, and to shun which Monmouth then took a remission; and that the feiking him to give this manifesto was a new trap laid for him, for if Monmouth would give 1000 renunciations, York will never think himselfe secure till headles, and to accept of a renunciation ware no wisdom, that being a tacit acknowledgement of some right, and the renunciation might be afterwards quarrelled, as given *per vim et metum*, even as his remission may be quibbled on as the deed of ane indulgent father, who could not wrong the *vindicta publica*, if he ware once dead. Our Whigs ware come to that height, that they ware speaking of no lesse then the rescinding the Duke of York's Parliament as null, because it was held by a Papist, who, by our acts of Parliament, are incapable of any office or trust, and much more of that hyest employment; but ther hopes ware very short lived, and we may say of Monmouth's favor, as Tacitus of Galba's reigne, *precarium et brevi transitorium*

imperium ; and we know not which of thir 2 factions, struggling in the womb of our state, shall prevail. Yet it's alledged, the Duke of Monmouth, by the remission, being reintegrated and made a free subject, the King cannot banish or confine him by the English law, but it must be upon the sentence of a judge, after convicting him for some crime. The letter the Duke of York would have had Monmouth signing craves pardon for accession to conspiracy, but denies any design of killing the King, or knowledge of it ; so the conspiracy seems only to have been the prosecuting or too hasty anticipating of the association against the Duke of York or Popish successors. Monmouth retired over to Holland after this.

In September 1683, dyed Mr. Alexander Young, Bishop of Ross, at Paris, a few days after he was cut of the stone : a moderate and learned man, unjustly supplanted in the Bishoprick of Edinburgh by his successor, and therefore attempts were made of sending him back *lege talionis* to Ross. At last, Ross was given to Mr. James Ramsay, Bishop of Dunblain, in July 1684, and Douglas, Bishop of Brechin, was translated to Dunblaine, and Mr. Cairnecroft, minister of Dumfries, is made Bishop of Brechin. (See him advanced to Glasgow, *infra* page 71.)

In October 1683, the French King, who had his army ready to have fallen in on Germany, to depose the Emperor, if the Turks had gained Vienna, being disappointed, he made a feint in upon Flanders, and under the pretence the Spaniards had tane a village of his, he seized upon the town of Courtray, a very disproportionat reprisal ; and though there was no war declared, yet committed many acts of hostility, only forbore burning, and treated the Spanish prisoners as robbers, not as captives of war ; so that the Spaniard, in December, declared war, rather than ly at such uncertainty. (Vide *supra* page 56.)

In November 1683, there came a warrant from his Majesty to torture Earleston, but he falling apparently mad it was forborn. Then 3 fellows for disowning the King's authority, were hanged at Edinburgh. (See this

at large alibi, in my law manuscripts.) Item, the Commission from the King to 7 of his Ministers of State, to manage all, and prepare things P. 60. for the Counsell, and give him an account of affairs, like the junto of the O&avians. This increased the animosities and mistakes between our Chancellor and Treasurer. (See it alibi.) A great attempt was made with the King, in September last, to get the Chancellor put off. See the accusation charged on him by the caballe, in another paper beyde me, alibi.

On the 3rd December 1683, some phanaticks at Glasgow make the attempt to kill Major Balfour and some of the officers of the army lying ther. They are apprehended, and wilddie condemne all other churches, even the Scots on of fugitives at Rotterdam, as not pure enough. The Privy Counsell sends a commission to 4, at Glasgow, to judge them their; viz. the Lord Ross, Lieutenant Collonell Winrahame, &c.

Collonell Leg, now created Lord Dartmouth, being sent away some moneths ago, by the King, with 16 ships, none then knowing his errand, he came to Tangier, and signified the King's pleasure to the garrison and burgers that both the forts, mole, and city, should be deserted, razed, and demolished; and they, their families, and goods, he was to transport to England;—And that because it was expensive to the King, and the Parliament in 1680, when he was seeking money to maintain it, they advised him to flight it as useless, (which they did to render him odious); and tho' London offered to the King to defray the charge of it, for securing their Levant trade in the Straits, yet it was judged unfit to put it in their hands, they being too rich, proud, and powerfull already, and deserved rather to be humbled and chastised. The French or the Mores will seize upon it, as left *pro derelicto*, and so *primi occupantis*, and will infect that coast. They speak of getting from the Spaniards a more commodious port on the other side of Gibraltar, but the English have not got it yet.—Thus ended Tangier, *urbs Tingitana*, the tocher and doury of our Queen

Catharen, whose brother, Dom Alphonso, King of Portugall dyed in September 1683, and Dom Piedro, his [brother,] succeeded to the crown. Many wished his sister Catharen, *ob sterilitatem*, had filled his grave. Many wondered at the politique of deserting Tangier, but *concilia principum sunt mysteria populorum*; and the Moors are seizing on the ground, and fortifying it, and will be troublesome to the English ships their, and refuse them fresh water.

In the end of this same year, dyed the Quean of Portugall, and the Duke of Venise, who had been Doge 8 years; and in his place was elected by the Senate seignieur Paulo Manco Antonio Justiniano, who in great solemnity, in ther Bucentoro, marries the Sea with a ring.

In November, we heard that Brandenburg, Saxony, Lunenberg, and severall of the Protestant Princes of Germany, were entering unto an association and confederacy for the defence of the reformed religion, fearing the Emperor, Pope, &c. inclined to extirpate it; and they were to invite Holland, Sweden, and Denmark, unto the Bond of Union.

The rest of the States of Holland having passed a vote for raising 16,000 men to defend the Spanish Netherlands, and the Deputies of Amsterdam refusing to consent, in pique and jealousy of the Prince of Orange, much pains was taken to bring them over; and they were threatened, if they continue obstinate, the rest would proceed without them, which they say would be a violation of the fundamentall constitution and establishment of that Commonwealth, each of them, in leaving of men and money, having a negative, and especially Amsterdam, which was richer then the half of them; and they should not have an equal vote and share in the government with those that contribute much more than they can do to the war, seeing they who have *major fundamentum in re*, should have also the greatest interest in the government, according to the rule of æquity in all societies and copartnerships: and in such cases, the plurality of votes could not bind the rest dissenting; therefore, the tax and levie was only

made offering to the proportions of the consenters, and no farther. At last, on the Spaniards declaring war, Amsterdam consented to the levy, at least to a recruit.

These of Amsterdam are of the Louvstein or De Witte's faction, and are afraid of the Princes' usurpation, and would rather submit themselves to the French King's protection; and pretended that 16,000 additional men was not a competent and sufficient strength against him, but required more.

Some spoke of agreeing France and Spain by an exchange of the Spanish Netherlands, and France to give them in exchange Catalonia and some part of Navarre, about the Pyrenean hills. (Vide infra, page 65.)

There was, in November 1683, great storms and shipwrecks on the coast of Holland and Norway; and 1500 dead bodies were cast forth at the Texel, besides Amsterdam, and there were many ships broken and drowned. And in the end of November, there began with us a great frost, which continued till the end of February 1684, and longer, for three months and a half, with some storms and snow now and then; so that the rivers at Dundee, Borrowstounness, and other places where the sea ebbs and flows, did freeze, which hath not been observed in the memory of any man before; and thereby the cattle, especially the sheep, were reduced to great want of meat, that the like had not been since the winter 1674. The River of Thames was frozen, and fairs, markets, and bullbaitings held thereon. P. 61.

About this time, there was a report that the Grand Seigneur, at the request of 12 of his Bassas, had strangled Achmet, the Grand Vifier, and set up Puteoli the Vifier's brother, to be his minister of state in his room;—but this was not confirmed till February 1684, which year, that the Aga of the Janizaries executed it at Buda.

In this month of December 1683, broke forth a scandal against Mr. John Macquean, one of the ministers of Edinburgh, of unmodest and indecent carriage towards Mistress Euphame Scot, with whom he was besot-

tedly in love, and thee despised him ; and he, by a trepane, obtained his petticoat, and made it in a waistcoat and drawers. He was suspended for their fooleries ; but in the beginning of Februar 1684, the Bishop reposed him again to his Church.

On the 26 of December 1683, Mr. William Home, brother to the Earle of Home, at the castle of Hirsell, in the Merse, did proditoriously murder Joseph Johnston of Hilton, and wound Home of Nynewalls. It was reported, that Hilton (who was of a haughty quarrelsome temper), besides opprobrious words he had used to Mr. William, he gave him also a box on the face : however, he came and stabbed him as he was going to his bed. It was that same day 12 moneth, that Alexander Home was hanged, whom the said Mr. William had apprehended, as one of the Shireffs of the Merse. He fled to England on Hilton's horse.

ANNUS 1684.

THIS yeir began with the report of a Parliament to be called in England, in regard the 3 years was near expiring since the last at Oxford, within which space the King had formerly ingadged himfelfe to call a Parliament, viz. once every 3 years; but the Duke of York, did not find it convenient that it should meit.

In the beginning of Januar 168 $\frac{1}{2}$, dyed the Lord Peters in the Tower of London, being on of the 4 popish Lords who ware imprisoned in the end of 1678, on the breaking furth of Oats's plot, and who have ever lyne ther since. A printed declaration came furth immediately as done by him, and directed to the King, attesting his innocency of that plot, &c.; but many thought it was penned by some papist after his death.

At this same tyme, dyed Henry Jermyns, Earl of St. Albans, who had been the Quean Mother's servant and favorite. He having no ishue, the King presently created on of his naturall sons, by [Mrs. Gwynne,] Duke of St. Albans.

About this same tyme, dyed Howard Duke of Norfolk, father in law to our Marquis of Huntly. He was a great support to the popish interest, nixt to ; and that family ever since the Reformation have been so inclined. Yet his sone, who is now Duke, being sequestrat young, and educat by the bishops, is a good protestant, which is a considerable providence to our reformed religion; but such is the restless subtilty of popish malice, that they give out this Duke is a bastard, and incapable to succeid, his father when Earle of Arundell not being

lawfully married to his mother; his 2^d lady, or rather concubine, was on Bessie Bickerton, a Scotswoman. Death entering at this new year on the English nobility, did also sweep away with his teeth the Lord Montague of Boughton, in [Northampton-shire.]

- P. 62. On the 24 of Januar 1684, the Earl of Perth is sent post by our juncto and our Privie Counsell to the King. See conjectures of his embassie in my law MS. at that day, page . He met with stormy weather of snow and frost; and came back again, in March, *re infecta*.

18 Januarij 1684. The Lords of Session, by ther act of Sederunt, ratify and confirme the act of the Faculty of the Advocats, imposing 500 merks on the advocats entering by examination, and 1000 merks on them who come in *per saltum*. (See it alibi in my Session MS. in 8vo., page 86, and the place ther cited.)

In this same moneth, the King makes a call of 16 sergeants at law, all choisen out of the ablest barristers; who were sworn and received with great solemnity (ther not having been such a number pitched on for some tyme) in ther robes, and each of them gifted with a ring containing this emphatick motto, *A Deo Rex, a Rege Lex*, denying the people a share athir in establishing kings or laws.

In the terme that sat in the beginning of Februar 168 $\frac{1}{2}$, at London, the Earle of Denby, late treasurer of England, and the Lords Powis, Arundell, Bellasis, and Tirowen, which 4 were imprisoned in the Tower of London, on the account of Titus Oats's discovery of the Popish Plot in 1678, are, by Sir George Jeffries, Lord Cheiff Justice, (the other Judges, as Wallop, &c. dissenting, at leift demurring,) set at liberty upon bayle, to appear at the next Parliament that shall fit. They had attempted oft before on a Habeas Corpus to have been freed; but it was alwayes refused them by the former Cheiff Justices, viz. Scrogs, Pemberton, and Saunders, on this ground of law, that being imprisoned by authority of Parliament, none else could liberat them but they; however, Jefferies did, and it

took his hazard of the Parliament. The caution each of them found ware of the greatest men in England, almost all Earles. The King creates Danby Marquis of Carnarvan, tho' the Parliament's impeachment of him for treason yet depends; but the King had given him a remission, which they controverted, because before conviction:—but this patent was afterwards stopt.

At the same tyme, Mr. Hampden, one of the conspirators in the late plot, and of the counsell of fix, (as was given out, vide supra page 52,) is tryed for hy treason. But finding they could only prove it against him by on witnesse, viz. the Lord Howard of Eserick, in regard the Duke of Monmouth, the other witnesse, disobeyed the subpœnas served against him to appear, and withdrew; therfor, they only infisted against him upon hy misdemeanors, such as his reflecting on the Governement as inclining to Poperie, &c.; and fyned him for thesse in £40,000 sterling, and bound him to his good behaviour during his lifytyme;—so some people concluded from this, that the phanatick plot was decaying when so eminent a man as Hampden escaped with his life for want of probation.

Eodem tempore, the Cossacks and Tartars give the Turk a great defeat, so that all Walachia, Moldavia, revolt from the Turkish slavery to the Emperor of Germany, and kill 30,000 Turks. Ægypt and some places in Asia, revolt from him lykewayes. (Vide supra pag. 56.)

In Februar 1684, the Deputies of Amsterdam protesting against the rest of the States Generall, for imposing a leavy by plurality without ther consent. (Vide supra p. 60.) And the Prince of Orange having raised a summons of treason against Van Benningham, ther representative, for corresponding with the French; and he fearing his head, did, at 3 a cloack in the morning, flee out of the Hague to Amsterdam.

22 Februarij 1684, Colinton is installed Justice Clerk in place of my P. 63. Lord Maitland. Item, 3 men hanged for disowning the King's authority. (See both thir at large in my Session MSS. alibi.) And Mr. John Dick,

formerly sentenced for theſe dangerous principles, and who had fled, is apprehended and hanged.

In March 1684, the King iſſues out a Quo Warranto againſt 14 of the Companies of London, as having loſt their charters, viz. Mercers, Groſſers, Taylors, &c. The Goldſmiths and Vinteners were the firſt two who came in and delivered up their charter of ereſtion and privileges to his Maſteſty.

At the ſame tyme, 3 ſuns are ſeen in the morning by many in the town of Dale, in England, and 3 rainbows like creſſents and halfe moons, to the great wonder and aſtoniſhment of the beholders, none of them having ever ſeen the like before.—In Scotland in the ſouth, it was reported, that graves were found cut out of the wholle earth, of the uſual breidth and deepneſſe, and the wholle lump laid inteer beſyde it, as if it had been cut out with a knife; this prodigy was called the ominous forerunner of ſome peſtilence or great mortality.

The ſtorme being broken which had deſtroyed many bridges, milnes, and coall ſinks, up and doune the country, to a great value; many fiſhes were caſten furth upon the ſhoar and ſands dead, by the rigidity of the winter, which certainly were very unwholeſome food, tho' they were ſold amongſt other fiſhes.

24 Martij, et diebus ſequentibus, was the criminall tryall of Sir Hew Campbell of Ceſnock, for treaſon, who was elenged for laik of probation. See this ſtrange affair at large in my folio law MS., marked , at theſe dayes, page .

In March 1684, dyes Lieutenant-generall John Lambert, ane active man, nixt to Oliver Cromwell, in the late troubles, and imprifoned in the Tower in 1678, upon the diſcovery of Oats's Plot, as a papift in maſcarade; and not only kept alive on the King's reſtitution, but even eſcaped the hands of juſtice ſince, upon ſome ſecret politique of ſtate.

In April 1684, Sir Lionel Jenkins, on of the Secretaries of England, begged of his Maſteſty, in regard of his age and infirmities, to accept a di-

miffion and retirement of his hand ; which the King did grant, and put Sidney Godolphin in his place.

About this tyme, dyed the Lord Halkerton, Lord Semple, and Ladie Napeir. And the Earle of Wigton's houfe of Cummernauld, and a great part of the toun of Kelfo, by accidentall fyres, ware brunt down and confumed ; and this winter, ther ware 2 fyres broke out in Edenbrugh, and on at the Weft Port theirow ; as alfo, Sir John Cochrane's houfe of Ochiltry was brunt, by the negligence of on that was making confections to his Lady in it :—The fervants fhould by a law or acts of counfell, be exemplarly and publickly ftigmatized by whipping, &c., that others may learn to be more carefull. In fome places the mafters in whoffe houfes the fyre begins are made lyable to refound the dammages fuffained by the neihbours, whither heritors or inhabitants, fo far as they are able to make up the loffe. (See Lublerus, *Tractat. de Incendio*, Vinnij *Selectae Quaestiones*, lib. cap. and Gayl, lib. *Observationum*, cap.). About this tyme alfo, the Caftle of Dublin in Ireland was brunt doune.

In the fame moneth of April 1684, we had ane account from Vien- P. 64. na, that the Grand Seigneur Mahomet, 4th Emperor of the Turks, was ftangled and put to death, in a fedition and tumult raifed among his people, at Conftantinople, by the Janizaries and thoffe who favored the lait Grand Vizier, whom he had caufed head ; (vide fupra, pages 56, 57, & 62,) and did fet up his brother, called , to be Emperor. Ther was, certainly, a great confufion and confternation in that Empire, and if Chriftendome would joyne unanimoufly with Germany and Pole, in all probability they might, with God's bleffing, humble ther pride, and chafe them out of Conftantinople and Europe, over the Hellespont to Afia, wher the Cham of Tartary is like to chaftife him ; and the Sophy, or King of Perfia, is raifing ane army againft him, to befieidge Bagdet or Babylon : for kingdomes have ther growths and increafes, and then ther difeafes, mutations, and periods, tho longer lived, commonlie, than any fingle

man is.—Tho this storie of the killing the Emperor of the Turks was asserted tuice in the printed Gazets, yet it was afterwards found to be but a miftake and a false report.

In the end of this moneth of Aprill, dyed at Edinburgh the Marquis of Montrose, to the regrate of all good men, and was buried at ther buriall place of Aberuthven, a chapell in Perthshire: he had much of his grandfather and father's good parts. His place as Captain of the King's guards was bestowed on the Lord Leviston, lieutenant to that troupe, on this pretence, that the Duke of York had declared that he would inviolably observe that rule in all offices, but especially in military ones, that, when the Captain dyed, the Lieutenant should succeed; but some thought, that he was but trusted with it as a fidei commissary, for the use and behoof of the infant Marquis of Montrose, Leviston's brother being married on the last Montrose's sister; but this was doubted of. However, many were disappointed and discontented who stood in competition for it, as the Tresurer, who was seeking it for his sone; the Marquis of Atholl, who had a fair claime, being once Captain, but dispossessed by the Dutchesse of Lauderdale's caprice, because his sone refused to marry hir daughter; the Earle of Airly, whose sufferings and loyalty pleaded a recompence; and fundry others. Mr. David Hay, Tuedale's sone, cornet of the troupe, succeids Leviston as conjunct lieutenant with Mr. Murray, Spot's brother, and Captain Home of Ford (who formerly had a company of grenadiers,) is made cornet, and his place is given to

On the 6th and 8th May 1684, the Chancellor, Tresurer, and our other officers of State and juncto, parted for London to attend his Majesty at Windsor, wher he was to hear ther complaints on against another. (See in my Session folio MS. marked , of this, page .) The Tresurer had mo of the nobles to ounne him, partly out of pick against a gentleman made Chancellor, and also because they are pensioners, and forced to depend on him ere they can get payment from the Exchequer. (Vide infra, page 67.)

On the 7 of May 1684, a Fast is kept for the severity of the winter, and backwardness of the spring.

9th May, Captain Paton is hanged for being at Pentland-hills and Bothwell-bridge rebellion; and a woman for poisoning another. (See the foresaid manuscript.)

In April last, on James Halloway, who had been upon the English conspiracy last summer, is hanged at Tyburne. He had fled to Barbadoes, and thence to the Ile of Mevis, and was found there crying straw hats, and sent over to England; and confessed his accession to the plot before the King, but begged pardon, feigning the King had forgiven Rumsey and other greater rogues than he. He was condemned on a former outlawry [which] had passed against him, but, in regard it was in absence, they offered him a new tryall for his life if he desired it. (Vide infra, page 66, Armstrong's case.)

About this time, dyed Father Cerle, le Grand vicaire of the Bishoprick of Pamiers, who, with his Bishop and others, espoused the Pope's quarrell against the French King in the controversy of the Regales: (vide supra pag. 17; and of this Pere Cerle's letters, the 4th historick manuscript, marked , page .) On his death, the French King ordained his papers P. 65. to be sequestered and seized on, whereby he might expiscate what intelligences and correspondencies he kept with any within his kingdom, or others, to hold up the schisme.

In May and June 1684, the French King commanded his army, under the commands of the Marshalls de Shomberg and Crequy, (himself staying with his Court and another army at Valenciennes, for he keeps himself always far from all danger, as the Jews advised their king David to do,) to attack and besiege the brave city of Luxembourg, in regard the Emperor and Spaniard would not embrace the offers of peace he made them. And after they had bombarded it several weeks, and that the Marquis de Grana, Governor of the Netherlands, and the Prince of Orange came not up in time to raise the siege, and the Prince of Chimay, who com-

manded the town, finding both his victualls and ammunition turning scarce, and the men of his garrison mouldering away, he was necessitate to surrender, and so upon capitulation, to march out with bag and baggage, and colours displayed. The French got this town and all the great dependences on it, which hastened the Hollanders in their Assembly of the States Generall, to embrace the overtures made to them by Monsieur D'Avaux, the French Embassador, of a truce with his master for 20 years, and to preserve the barriere townes betwixt them and Germany, and to incroach no farther. This was carried by the French faction in Holland, contrary to the Prince of Orange's party, who protested against it, except the King of France should also restore him to his principality of Orange. (Vide supra pag. 60.) Then the French envoyes gave the Emperor and King of Spain a limited tyme betwixt and which they may come into the treaty; and in the mean tyme forbore acts of hostility. Spain was much enraged at this conduct and procedure of the Dutch. The French King and his train returned to Paris; and severall of the English nobility and gentry were disappointed, [and went] some to the one side, according as they affected, and some to the other, to be volunteers in this campaign. The Duke of Monmouth offered his service to the Spaniard, got a command, and was very honorably used.

The French forces, by a surprize, did also, at this tyme, make themselves masters of the city of Treves in Germany, (a key of that country, like Coloigne, and Strasburg,) belonging to the Elector of that name. As also, his fleet and gallies in the Mediterranean, under the command of his Admiralls D'Eftrees and Du Quesne, came before the city of Genoa in Italy, and craved they might submit to the protection of the crown of France, and desert the assisting of Spain; (see infra, page 74 in calce and 83;) which proud message they refusing, they brunt downe many of the palaces and churches of that pretty citie, with the fire bombs thrown in upon them; but, at last, that republick having raised their forces, they necessitat the French navy to retire; who in the

way heſtored the Duke of Florence, requiring the liberty of his harbors and a ſumme of money; which he refuſed. Theiraſter they aſſaulted Gi-roune, a ſea town in Catalonia, and the Governor craftily ſuffered them to enter the town by caſting open the ports, and they, not awar of the ambuſcade, ware ſo peppered with muſket ſhot of the Spaniards from all the parts of the ſtreets, that many of the French left ther carcaſſes ther, and the reſt fled in confuſion to the ſhips: however, ſince [that time] they have taken ſome townes and caſtles ther. As for the French King's pretenſions on Luxemburg, Treves, Genoa, Catalonia, &c., ſee them in Mr. D'Avitie's Hyſtorie of France, and the Intereſt of France, and other wryters.—At laſt, the Emperor and Spain finding they had no other game, they made a vertue of neceſſity, and agreed to the 20 years truce; and the articles ware at laſt interchanged in September 1684; and the French King refuſed long to evacuat and give back Courtray and Dixmuyden, on the pretence of arrears of contributions owing.

In May and June 1684, at the Trinity terme, his Royall Hyneſſe the P. 66. Duke of York, was perſuaded by ſome to intent a proces againſt Titus Oats, for reviling him upon the ſtatute of Scandalum Magnatum; and Oats refuſing to appear and give in defences, probation was led againſt him. Some witneſſes deponed, he called the Duke a traitor, others, that he brunt London, and that it would not be weell with England till he ware baniſht or hanged, but hanging was the beſt of the 2 for him; and tho' he got him fyned and imprifoned, yet, whenever a parliament ſhould fit, they would liberat. It was obſerved, never 2 witneſſes deponed as to on expreſſion, but all on ſeverall words: however, the Jury, without retiring from the bar, found him guilty, and the Judges fyned him in £100,000 ſterling damages, for which the Duke got him imprifoned; and it was talked, they would firſt try him on perjurie, and if that ſuccceeded, then they would arraigne him on hy treaſon. Pamphlets at this tyme came abroad diſparadging the evidence he had given that ther was a Popiſh plot.

The Duke finding himselfe now above all hazard, he got in effect the power, if not the place of being Admirall of England again, which had been taken from him. As also, the King declared his prefence was necessar in his Privy Counsell; so he was restored also to that place, wheir he had not appeared publickly thesse 6 years past; and tho their was ane English act of Parliament, that none shall bruik a place their, except he take the negative oath against Transubstantiation, which the Duke hes not done.

About this same tyme, the King of Brittain's Envoy in Holland, (Master Chudley,) being informed by Mr. John Constable, a Scotsman their, that he knew wher Sir Thomas Armstrong (who had fled out of England on the discovery, this tyme 12 moneths, of the late phanatick conspiracie,) haunted in Leyden, (in which toune Armstrong was borne, his father being a groom, and dischended of Archie Armstrong, King James's fooll, and of a Scots race in the borders, tho he fell to be in great favor with the Duke of Monmouth,) they hires some of the guard their, called the Stoupis, appointed for suppressing the unruly students, and without letting them know their designe apprehends him, and carries him in to a scout, and from that to a ship, and straight hoyses sail for England. The States of Holland ware displeased, it being contrare to that protection they give to all strangers, and tho they had, by ane article of the last treaty with our King, consented to deliver up to him any of his rebell subjects he should require them; yet it boor alwayes this condition, that the party be first advertished, which, in effect, was only to put them out of ther territories. However, he by this trepane was brought before Sir George Jeffries, Lord Cheiff Justice of the King's bench at London, and the former decree of outlawry red against him. He craved to be reponed, as they had done Holloway; (supra p. 64.) Answered, the King had done that *ex gratia*, wheiras they ware not the dispensers, but behooved to put the sentence to execution against him, unlesse the King ware prevailed on in his clemency to mitigat ther justice. Then he founded on the 11 statute,

5th. and 6th. Edward VI., wher any perſon that is beyond ſeas, being declared outlaw and fugitive for treaſon, &c. hath a year allowed to him to appear and purge his contumacy, and propone his defences. But Sir Thomas was alledged not to be in the circumſtances of that a&, becauſe its only extended to them who, within a year, ſhall render themſelves to the Cheiff Juſtice; *ita eſt*, he was taken, and did not voluntarily ſurrender P. 67. himſelfe. He urged, he did now deliver himſelfe up to the Juſtice, and the year was not yet expired; which was repelled. (Of purging contumacy within a year, ſee Titulos Dig. and Cod. *De requirendis reis et abſentibus damnandis*, for this Engliſh ſtatute.) The reaſon he got ſo hard meaſure, and the rigor of the law, was, he had been a great he&tor of the Whig cauſe, and if they had loſed that outlawry, they feared the probation they had againſt him would not be ſo convincing and full, and they reſolved he ſhould not eſcape; ſo he was hanged on a decreet in abſence. His daughter, Miſtreſs Mathews, curſing the judges as murderers of hir father, ſhee was a while put under cuſtody. He had been a man of a profligat vicious life, and yet his ladie tendred fundry petitions to the King ather to give him a fair hearing and tryall, or a pardon, or at leiſt his body; but all was reſuſed hir. He ſeems by his carriage and ſpeech, (tho he denyes all guilt whatſoever,) to dy very compoſedly and Chriſtianly, and not ſo as Sidney does; (ſupra page 58 :) but reviling epitaphs ware printed on him.—Ther was in the ſame houſe the tyme Sir Thomas was tane, the Lord Gray, Ferguſſon the miniſter, and Rumbold the maſter; but they eſcaped for this bout.

Supra page 64, we ſee our great men are called up by the King, and the generality ware then of opinion that the Earle of Aberdeen, chancellor, would not be laid aſyde, but that the King and his brother the Duke would command them to unite and agree in ther ſervice. Yet when they came to Court, the Marquis of Queanberry, treaſurer, and his party, had ſo prepoſſeſſed the King againſt him, and had got the Dutcheſſe of Ports-

mouth, and the English Bishops and clergie on ther fyde, that it was easie to overthrow him ; especially finding the Duke very luckwarm to him, and they representing, that they ware both more willing and able to prosecute all his Royall Hyneffes designs then he was, and that he had taken no pains, nor bestowed any coaft to make the English his freinds ; likeas his mean retinue, (having only the Earle of Dumfermeling, and a few gentlemen, Gordonston, Rothemay, Cookfton, &c. with him) and obscure way of living did him that hurt, to afford the Earle of Midleton, secretary, ane occasion to mock him, and treat him in ridicule before the King. Tho the Scots Bishops looked on him as ther patron, yet the English clergie, by the instigation of Mr. Faw, (whom the Hy Treasurer had sent up a litle before him, and whom he hes procured to be made Principall of the College of Glasgou, in place of the deceast Mr. Edward Wright, without the A. Bishop's suffrage,) represented him to the King as a favorer of the Papifts, who gave him the convoy as he came throw Northumberland, and flocked to him at London. Mr. Faw is also made the King's historiographer for Scotland, in place of Mr. Crawford deceist. And yet, now since his fall, the Papifts (who are somewhat soberer heir then they ware) brag, that the cause of his outputting was because he was beginning of late to countenance the Fanaticks, and to hinder them from being brought to justice, as Gordon of Earlestone, the Lord Melvill, Lord Argile and Lorne, Cefnock, Sir James Dalrymple of Stair, &c. It's true, severall of his former freinds, as the C. Register, King's Advocate, &c. having deserted him, he fell in with my Lord Lauderdale, (after they had transacted the fyne of Dundie,) and Sir John Dalrymple, and other discontented persons ; and used them and the 2 Lockharts for his great counsellors, with whom he advised and abstracted himself wholly from the nobility ; which reservednesse they took in very ill part, besydes the grudge they had to see a lawyer and a gentleman step into that office which the nobility had intayled and monopolized for a long tyme among

themselves :—(See some observes of this *supra* pag. 36 at his entry, and from the 8vo manuscript cited their.) He hes just but 2 years keiped his place, and many, at his surprizing advance, thought his gouvernement would not P. 67.* be lastie. The first year he acted very absolutly without noticing the nobility, and carried Blaikwood's interlocutor, and other things, with a very hy hand; and sometymes gave his opinion on debates at Privy Counsell, as the sence of the board, without ever asking ther votes. This occasioned a combination against him about the tyme of our Circuit Court, in June 1683 and 1684, when they sent up my Lord Perth to London, to undermine him. Yet they could not obtaine it done then, which made him and others confident that the Duke of York would not part with him, being his oune creature, having no other legs to stand on but his and Huntlie's, and whom he might trust;—for tho ther ware mistakes betuen him and Huntly, his cheiff, as that he was assuming the fimple coat of armes as not deschended of him, and that he took to himselfe the benefit of the translation made with Glenurchie of some lands in Caithnes, which the Marquis expected should have been for his behooff, yet Huntly desired none should chastise or punish him but himselfe.

To load the Earle of Aberdeen and the Bishop of Edinburgh, it was proposed at Court, that no man should be put of the Privy Counsell but by a letter from the King, bearing the accusations and causes of it; but the Duke of York broke this designe, and thought it more smoothe only to lay them asyde by a new commission wheirin they are left out.

The King gave the parties ane audience from 9 in the morning to 12. Aberdeen craved his Majesty might ordaine them to give in ther accusation in writing, and to signe it; which he refused to put them to. Part of the heads they charged him with, besyde his want of a mine and deportment for so honorable ane office, ware, 1mo. That when Claverhouse craved a warrand from the Privy Counsell, that Sir James Dalrymple of Stair might be cited for treason in resetting intercommoned ministers in his house,

and offered to afford probation, the Earl of Aberdeen, then Chancellor, did oppose and stop the same, and called it only pique in Claverhouse. 2do. He obstructed and retarded the Toun of Edinburgh's count and reckoning, and the tryall of the magistrats malversations; by which too he prejudged the King's revenue and the publick. 3tio. They laid the wholle blame of the Circuit Court upon him, and all the extortions and oppression used by Mr. Thomas Gordon, the clerk, and others, in herrying the Western shires; and they did not stand to say, that he went snips with them who wrung that money from the poor people. And they gave many other instances of his covetous griping temper; as his proceedings against Sir Alexander Forbes of Tolquhon, in depriving him of a peit gate, to force him to give him a licence in his moffe; item, with on Thomas Ronald, whose means he got in 1679; and with Gray of Shivez, and with S. Alexander Seton of Pitmedden, in his clandestine inserting a clause anent his moffe of Logierniff, in a signator he was passing; in his acquiring in many considerable parcells of land in 2 years tyme, and whence the price came they knew not; it was also aggravated that he had, with much zeall and violence, carried on that affair of the mint and coinage against Halton, &c., and within a moneth after the sentence, he had obtained a gift from the King out of that fyne for £16,000 sterling, tho he transacted it for the halfe; that once he insolently commanded Neuton, President of the Session, to hold his peace, calling him—Sirra, tho he recriminated against them that Perth and his brother the treasurer-depute, had called him a Rascall; but this was meer scolding. He made severall answers, but the King was so prejudicat and ill satisfied with them, that he swore "God's Fish, (the oath he uses when in passion) who recommended this man to me to be my Chancellor!"—and therupon commanded him to give up his commiffion; which he did, tho he and his freinds gave out, that if he would have condescended to act as Chancellor with the juncto, he might have keiped his place: but he told the King, except he exered it as freely as his prædecessor the Duke of

Rothes did, he could not serve him ; and the King telling him, he would be served in his own manner, and conforme to his own measures, he then voluntarily dimitted. Tho many wonders why the Duke of York deserted him so easily, and thinks this instance, and that of his forsaking the Earle of Lauderdale and the Lord Maitland, is not the way to get stout and P. 68. faithfull servants. Yet ther ware sundry prefaces of his fall, wheirof the King's naming a juncto to manage all his private affairs wholly consisting of his enemies, was a great forrunner. Likeas, all this last winter they did so insignificate him in every judicatory, that they carried what they pleased by a vote against him, which made him weary of the place, and very indifferent whither he continued longer the but of ther envy or not ; especially seing, tho his tyme was short, yet he had feathered his nest weil, and made hay in summer while the sun shone, and had bettered his fortune neir £1000 sterling a year, beyond the £500 sterling it was worth formerly. 3tio. It was remarked as a bad omen, that the last winter his coach horses on day refused to draw him to the Parliament House, and by no whipping would stir so long as he was in it, but walked right enough when he came furth till he offered to goe in again, and then they sat up of new. 4to. It was observed, he had contracted freindship with some unfortunate men that had, for a long tyme, been out of favor, as the Duke of Hamilton, the Earle of Home, &c. and syded with others who ware odious to the country, as the Bisshop of Edinburgh, &c.

After he found that the King's affection was alienate from him, notwithstanding the Duke of York's advise to him, and the intreatie of his freinds ther, he parted privatly from London, and took post the 22 of May, the day before the King's birth day, and came to Scotland on the 2d of June, to the great surprize and amazement of all ; but kept things so close that generally all flocked to him, beleiving that he had gained the day : till after 4 days stay in the Abbey, he retired north, and took his furniture and plenishing with him, which gave the first ground of jealousy and suspicion that his

affairs were not right. The other party keeping the field triumphed, and then the question fell in who should succeed him; some were for the Marquis of Athol, named to it when my Lord Aberdeen got it; others were for the Archbishop of St. Andrews, or Tarbet, Clerk Register, to be it: but after some animosity, the King conferred it on the Earle of Perth, and signed his Commission to be Chancellor; and this being settled, they fell to the modelling and altering of severall other offices, which we shall see (*infra*,) they got to their mind. And so they came off in coach, in the beginning of July 1684, and arrived at Edinburgh the 10th of that month; where they got a most magnificent reception, by shooting of guns, and the forces drawn out, and the Magistrates meeting them in their robes, so that little more could be given either to the King or his brother if they were coming hither.

On Tuesday thereafter, being the 15 of July, the Privy Council met; where, first, the Marquis of Queensberry, by a letter from the King, knighted George Drummond, Provost of Edinburgh; then, 2^{do}, Perth's patent to be Chancellor was produced, and he received and sworn; then, 3^{do}, the Earle of Linlithgow's commission was produced; for they had wheedled him out of his place of Colonel to the regiment of foot, and given him that moveable and variable office of being Justice General, (as Sir Archbald Primrose had been so mocked out of the Register's office before him;) and this was done of purpose to make a vacancy, that James Douglas, the High Treasurer's brother, might get his place of Colonel, and accordingly his commission to succeed Lithgow in that regiment was read in the 3rd place. There was altercation at London to have bestowed the Justice General's place, vacant by Perth's advancement, on the Earle of Strathmoir, Middleton's brother-in-law, or on Tuedale; but they at length gave it for a time to Lithgow, with £500 sterling pension per annum. Lithgow flies the cheat, but cannot mend himselfe, only he bids any who succeeds him keep it as long as he has done, which is 22 years, and he defies them: his method was by

giving money to the Dutcheffe of Lauderdale and others in power; how- P. 29.
 ever, Sir William Ker merrily told him he might now hang all the Whigs
 without endangering the King's forces, or retiring as he did shamefully at
 Inchbelly bridge, when they ware in armes in June 1679; only he fays
 for himfelfe, he had a privat order to forflow the joyneing with the enemy
 till the Duke of Monmouth (who was then made Generall,) fhould arrive.
 Then the new commiffion of Privy Counfel, was produced and red; wheirin
 ther ware 7 members contained in the former commiffion of Counfell
 omitted and left out in this, viz. the Duke of Monmouth, the Lord Lorne,
 the Earle of Dundonald, Earle of Aberdeen, the Bifchop of Edenbrugh,
 the Lord Maitland, and his brother-in-law the Lord Elphinfon; and ther
 ware 4 new young counfellers added, viz. the Earle of Arrane, Lord Drum-
 lanrick, Lord Yefter, and William Hay of Drumalzier his unckle, befide
 the Chancelor and Treafurer of England, who for honor's fake ware made
 counfellers with us, becaufe our 2 Scots Secretaries ware made counfel-
 lers in England. They had given the King a very bad impreffion of the
 Bifchop of Edinburgh, fo that he was not only turned out of the Counfell,
 but his penfion he had from the King of £100 fterling, was revoked,
 which he got on a falfe representation, that he payed that much out of his
 benefice to the prebends, wheiras he caufed the moft part of them renun-
 ceat ere he would collate and admit them, and keiped fundry churches,
 wheirof he was patron, vacant, that he might lift the ftipend *medio tem-
 pore*; but the Englifh prælats thought it *mali exempli* for the King to
 lay afide or deprive even a vitious Bifchop, becaufe it opened the Whig's
 mouths and reflected on the order. In the 5th place, Drumlanrick's com-
 miffion was red to be Captain of a new troupe of horfe to be levied, and to
 be Lieutenant-collonell to Claverhoufe. And in the laft place, was red
 James Nafmith of Poffo's gift to be quartermaster to a regiment, and to be
 falconer to the King, for which he hes a penfion of £200 fterling a year.

The King having made the Earle of Perth, his Chancelor, to be

Shireff-principall of Mid-Louthian, in place of the Earle of Aberdein, the laft Chancellor, who had that office before, (fo that it feims they mind to make that Shireffhip follow the Chancellor's office, as a pendicle theirol, tho it boor not to him as Chancellor and *ſucceſſoribus in officio*.) the nixt day, being the 16 of July, the heritors being all invited to be preſent by letters, the ſaid Chancellor was admitted, ſworne, and receaved, in a fenced Shireff court, and the Hy Treafurer, William Fletcher, and Mr. Thomas Skein, the 2 Shireff-deputs theirin. Some ware diſpleaſed that Mid-Louthian ſhould be ſo treated, that nather its Sheriff-principall nor deputies, had any intereſt as heritors in the ſhire. To the fix who remained of the juncto or ſecret Committee of Counſell, (E. Aberdein being laid aſide,) the King by his letter, added tuo more, viz. the Archbiſhop of St. Andrews, and Newton, Preſident of the Seſſion; who will ſignify more now in affairs, eſpecially in Seſſion, then he did, the preſent Chancellor not being able to ecclipſe him as the laſt, who (to give him his due) was both ane ſagacious lawyer, and ane indefatigable ſpirit for ſerious buſineſſe, when he gave application of mind to it.

Thus fell the Earle of Aberdeen from this office, with as great a ſurprize to all thinking men as his advancement to it was; and tho the ſecret ſprings of this cataſtrophe and revolution ware not ſeen, nor by what ingadgments and undertakings they had recommended themſelves as more uſefull then he; yet many had ther fears that ther governement ſhould never be a white more calme and oblidging than the former ware; and the vulgar was ready to ſuſpect that a connivence at Papiſts was promiſed with the introducing the Engliſh Liturgie, or ſervice books, at leiſt in the Abbey church; but ſome ſaid, the Papiſts neided no more toleration then what they enjoyed already, they wanting nothing but the publick exerciſe, and ſome of our churches; but that they would verify the character of the præſervid Scots genius, they ware ſeiking to ſtage the Earle of Aberdeen, on ane act of Privy Counſell, made by himſelfe in May

1682, making shireffs lyable for any conventicles within ther bounds, if they did not diligence, ather to diffipate them or tymeoufly to discover them, (the making of which a^t Duke Hamilton and others did much oppose,) P. 70. and they heard ther was a conventicle in Mid-Louthian; but after a pre-cognition tane of the witneffes, it was found to have been in Tuedale-shire, onlie a penny stane caft of the March betuen it and Mid-Louthian. Its thought ther vehemence will not stop heir, for they are searching out his other malversations, and are trying if they can deprive him of the £100,000 Scots Halton was to pay him, as a part of his fyne. Befyde the conjectures of the promise of a toleration to on party, and ane uniformity in worship for all the rest; it was talked, the rigorous exacting of the oath of the Test was to be relaxed *quoad* some, and it was resolved, for a principle, that none suspected of phanaticisme should be advanced to any office or place in Scotland. This, among many former instances, may teach us how lubrick and staggering a thing the favor of Court is; and yet the disgracing the predecessor, nether deters the successor from accepting, nor serves for ane beacon and admonition not to shipwrack on these rocks others had splitted on before him. But it is very just and fit ther should be such ane uncertain circulation; for besydes, that it helps to wean our thoughts of thir giddy inebriating sublunary contents, and draw up our hearts to a more noble reward, without this, vertue would starve, and its blossoming hopes and expectations would be nipped in the very bud.

This is a part of what our statfmen thought fit to discover of ther a^tings above; for, as Dean Annand observed, the nation was become lately guilty of a sin which they had not been subject to of a long tyme, viz. the sin of secrecy in keiping all ther affairs very cloffe. (See thir things abridged and some farder remarks on them in my 8^{va} manuscript of Session occurrences, marked I, in July 1684, page 88; and in my folio law MS. at the said tyme, page .)

While thir things ware in agitation, our country lost 2 worthy men by

death, in England, viz. holy Bishop Leighton, and Mr. Brisbane, clerk to the Admiralty their, and it is not a small nation that had 2 such eminent men to spare in a week's tyme.

In June and July 1684, the Imperiall forces, under the command of the Duke of Lorrain and Count Leslie our countryman, having rancountered at 2 severall tymes, with 2 armies of the Turks, (the last of the two confisting of no fewer then 35,000 men,) they did give them a signall rout and defeat, and killed 4000 janisaries, and took many prisoners; and put the rest in that fear and consternation, that they left the townes of Vaccra, Virovitza, and Pest, to the Christians; who, theirupon, to pousse forward their victorie, besieged the city of Buda, the capitall of Hungarie, and beat them from the nather toun to the upper toun and castle, which made great resistance, and cost much Christian blood: (see infra page 72.)

In August 1684, some of Claverhouse's troupe, bringing 16 prisoners from Dumfreis, they were assaulted by some Whigs at a strait passe of Entirkin hill, and 2 or 3 of the King's forces were killed. Item, Mr. Spence is, by the Counsell, tortured both with the boots and the thummikins. See thir at more lenth in my law MS. in this moneth, page , where we have a note of the said Mr. Spence's confession, with what followed thereon, and how some of these rebels who assaulted the King's forces at Entirkin hill were hanged; and on Nicol of their principles, unnecessarily and officiously discovered himselfe at their execution, and was himselfe, for his perverse and disloyall obstinacy, executed. Item, the new lieutenantancies, and modells of Privy Counsell into committees, to goe throw fundry shires to inquire for the rebels. (See all this ubi supra.)

- P. 71. On the 22 of August, 1684, Mr. Alexander Burnet, Archbishop of St. Andrews, dyed at his house of the Abbey of St. Andrews, having taken sicknesse 10 days before, at the consecration of Mr. Cairncroffe to be Bishop of Brechin, and was buried in St. Salvator's Church chieir on the 2^d. September thereafter. He was a man of much moderation and temper,

especially since he was laid asyde in 1669, and then again restored in 1675. He was succeeded by Mr. Arthur Ross, Archbishop of Glasgow, not so much advanced for any respect our statemen boor him, as to remove him from Glasgow, wheir his carriage had made him odious; and to make rume for Mr. Cairncorse, Bishop of Brechin, to be Archbishop of Glasgow, that he and the Hy Treasurer (whosse sifter, Jarden of Apple-girth's reliet, he was to marry,) might governe all the West Countrie at the Treasurer's pleasure; and the Chancellor got on Doctor Drummond, minister at [Muthill,] to be Bishop of Brechin. The Bishop of Edinburgh preached the A. Bishop's funerall [sermon]; and made Bishop Sharp, his predecessor, a martyr for our Church, and Burnet only a confessor, and indiretly preferred Sharp. He was buried besyde Bishop Kennedy, who sat in King James the 2^d and 3^ds tyme, and was a good man. Some made a merry dialogue betuen them, wheirin Kennedy asks at Bishop Burnet, What bridges and hospittalls he had builded; who bluntly answers, that his son-in-law, Rorie Mackenzie, hindred him from acts of charity. He was the 47^t Bishop who sat in that chair; his father was minister at Lauder.

In the end of August 1684, the King by a message eased the Lord Roberts, Earle of Radnor, of being President of his Privy Counsell, (but in testimony of his kindness continued the pension with him,) and put Hyde Earle of Rotchefer in his place; and advanced Sidney Godolphin, his secretarie, under the title of Baron or Lord Godolphin, to Rotchefer's office as on of the Commissioners of the Treasurie; and put our Scots secretary, the Earle of Middleton, into his place of English secretary, as conjunct with Sunderland. This was the Dutchesse of Portsmouth's doing; and some thought Middleton not wise in changing, (tho it be worth £5,000 sterling a year, and 3 or 4 years will enrich on,) for envy follows greatness as naturally as the shadow does the body, and the English would sooner bear a Mahometan for ther secretar then a Scot, only he hes now a good English

ally, by marrieng Brudnell Earle of Cardigan's fifter. Our office of Scots secretary, after some debate among our statesmen, was conferred on Lundy, Treasurer depute, wheirby the Chancelor's court was somewhat more fixed and strenthened, being formerly precarious on the Hy Treasurer as of his creation ; and his office of Treasurer depute was given, in the moneth of December theirafter, to Keith Earle of Kintore, who was then sworne, admitted, and received.

Supra pag. præcedenti, we see Spence tortured with the thummikins, (ane ingine but lately used with us;) now, on the 4th September, Mr. William Carstairs is also put to the same tryall ; and Comisar Monro being threatned with them, he and Carstairs discovers the bottom of this Scots plot, that ther ware fundry conferences and meetings anent debaring the Duke of York, and associating with the English for preserving our religion, and raising war, &c. ; wheiron the Earle of Tarras, Murray of Philiphaugh, Sir John Dalrymple, and many others, to the number of , (named in my law manuscript, at the 4th September 1684, page ,) are apprehended and imprisoned. Polwart, and some others, escaped ; and because I am full ther, I contract it into shorter bounds heir, to avoid repetitions.

About the middle of September, 1684, his Majesty, by a letter, empowered a certain number of his Privy Counsellors, to the number of 12, with a justiciarie power, to go and hold courts in the western and southerne shires, and divided them in 4 districts, 3 Counsellors to each court, viz. at Dunce, Dumfreis, Air, and Glasgow. The tuo principall effects ware, the
P. 72. Heritors taking the Bond that themselves, ther tennents, and all on ther ground, should observe the ecclesiastick penall laws against conventicles, absence from church, resetting rebells, &c. 2^{do}, The voluntar offer of a cess to the King: But see more of their aetings, in this commission, in my folio law manuscript, in September and October 1684.

On the 27, and 28, and following days of October 1684, happened a great storme of snow and frost, with thunder and lightening and much

shipwrack of many weffells at sea; and Holland was afraid to have been drowned, ther banks was so shattered with the sea. The snow lay some days at London, but had not been observed for many years to come so soon in the year, and thunder there is very unusuall: we say Winter's thunder is Summer's hunger, which God prevent. This tempest drove in also upon our shoares and sand a new kind of fish like a mackrell or herring, but with a long snout like a snipe's beik. Doctor Sibbald sayes it is the *Acus marinus*, the sea neidle, described by him in his *Naturalis Historia*; they have been seen before, but are not frequent, and therfor are look't upon by the vulgar as ominous.

In November 1684, we had the sad account of the raising the siege of Buda, (de quo supra, page 70). This town was perfidiously seized upon in 1541, by [Solyman] Emperor of the Turks, and the recoverie of it has been thrice attempted since, but unsuccessfully. The beginning of this siege was promising, for the Imperiall forces gave the Serafquier Bascha (who is generalissimo of all the forces in Europe) a little defeat; on the news whei of the Grand Seignieur was so enraged, that, being in the fields, he threw himself on the ground, and tore the graffe with his teeth, and none, for some space, durst come neir him. The Turks lost 3 Governors in the siege, but defended it with great resolution. Much of the flower of the Auftrian and Hungarian gentry were consumed and lost heir; and the rest had much difficulty to retire, tho they had the help of the river Danube, and resolved to have converted the siege unto a blockade during the winter, finding that provisions were turned so scarce in the town, that a pound of horse and camell's flesh, was sold at 22 ftyvers; but their being a fresh recruit, both of men and victualls secretly conveyed unto the town, the Christians were forced to give over the siege, and above 2000 of the German horses dyed for want of forrage and provisions. This proved a great discouragement to the Christians on the one hand, so it emboldened the Turks on the other, as repairing and compensing the

affront and losse they suffered the former year, (supra, page 56,) in leiving the seige of Vienna, and confirmed them in ther infidell argument of succeffe; wheiron the Emperor hung out at Constantinople 3 horse tails, and Mahomet's standart, inviting all souldiers to his army nixt spring, which he resolved should consist of 300,000 men, and baited them with the promise of double pay:—so the Emperor may be swallowed up, if he get not help, and the Princes of Germany, especiallie the Protestant ones, (except Bavaria, who is Popish,) gave him no great assistance this summer, not being curious to conquer townes and countries to him. The Venetians intended to have annoyed him by sea, or some attempt to surprize the Dardanells, beside Constantinople, but that was too bold and enterprize. A Christian woman at Castelnova was taken, desigining to fyre ther ammunition house; hir hands and feet ware cut of, and her body throwen to the dogs on the dunghill.

- P. 73. In November 1684, the Duke of Ormond, as aged, desiring to be freed of the government of Ireland, the King named the Earle of Rotcheester to be Deputy ther. On Goodman, a comedian, is accused for attempting to poison the King's 2 naturall sones, the Dukes of Grafton and Northumberland, in a flask of win. Sir James Smyth is named by the King to be Lord major of London for this ensueing year. Sir William Prichard, the late mair, perswades Du Bois and Papillion, the old sheriffs, for wrongous arresting and imprisoning him the tyme of his majoralty; and it's proven against them, that at a consultation among them, in Russell's house, it was so resolved on, that they might the more easily carry on ther designed conspiracy and association, and they are fyned in £1000 sterling damages for it. Titus Oats is also indyted for perjurie, in swearing that Ireland, the Jesuite, was at London the beginning of September 1678; wheras it is proven now, by many witneses, that he was then very remote from London, over seas at Saint Omers; (vide more of Oats infra, page 84.) On Russell, a non-conformist minister, is accused for preaching in Sep-

tember laft ther feditious words, "That peeple thronged to the King to be cured of the King's evill, but they fhould come to them who ware both Preifts and Prophets, who could heall ther fores, for we had 2 bad Kings like Jeroboam, but if they flood to it they fhould overcome ther ennemies;"—tho he brought in many of his parifhoners, who witneffed that they ware prefent that day, but heard not theffe 2; yet their was 2 who deponed pofitively that he uttered theffe words. Mr. Jofeph Hayes is alfo proceffed for having remitted £150 fterling to Sir John Armftrong, after he was rebell and fled to Holland, and fo for correfponding with and affifting traitors. The Jury thought the probation not full, and fo returned him not guilty.

On the 8th November 1684, was the Prefbyterian Declaration (fo called) affixed on fundry mercat croffes and kirk doors, by the Whigs in the weftern fhires, threatning, that if the curates and fouldiers, &c. would not give over the perfecuting and fearching of them, but brought them ftill to publick deaths, they would not spare to fhed ther blood by ther oun measure; feing they could not doe it now in a legall judicative way, and they difowned Charles Stewart to be ther King. And in profecution of this, fome of thoffe ruffians fell in, at Suin Abbey, befide Blaikburne in Weft Lothian, and murdered Thomas Kennoway and Duncan Stewart, 2 of the King's life-guard, in a moft barbarous manner. Some thought that Whig Declaration was but a State invention, fet on foot by the fouldiers, to make that party odious, and themfelves neceffar; but this convinced every on of the reality of this declared war. Three fellows called Wat, Semple, and are apprehended, who refufing to difonne that Declaration as unlawfull, are hanged, and carried from the bar to the gibbet, and ther bodies are ftollen by weemen the nixt night.

Porterfeild of Ducholl, is alfo proceft and condemned for treason;
1^o. For refetting his brother a declared traitor, for being at Pentland-

hills; 2^{do}. For concealing that Sir John Cochrane was seeking a collection and contribution for my Lord Argile, after he was forfaulted. See this at more length in my law manuscript, the dayes of November 1684.

In the end of that moneth, a new search was made throw Edinburgh for thesse phanaticks and ther refetters; and any they suspected they put to disowne the Whig Declaration, and to declare they acknowledged the King's authority. Item, by a proclamation our Parliament is appointed to meet on the 10 of March next, where the Duke of York was to be present; but the death of the King, his brother, intervened.

P. 74. In the end of October 1684, dyed James Campbell, Earle of London, at Leyden, some dayes before his denunciation to the home as a fugitive, being cited to appear as guilty of the late conspiracie with Argile. Some alledged his death was but simulate, like my Lord Belhaven's drowning in Solway fands; but their were clear proofs of it. And at this time, Sir James Hacket, our countreman, one of the King's best souldiers, dyed at London of his wounds from Endymion Porter's sone.

17 Novris. 1684. Sir John Cunyghame, advocat, a person of great merit and learning, dyes at Edinburgh.

In the same November terme, at London, there was one Dolben perfwued for calling the King a Papist, and that the Duke of York had burnt the city of London. Another, called Mr. Boort of Kingston, is accused for saying Oliver Cromwell's government was better and easier then the King's.

In December 1684, we were troubled with the rumors of visions and apparitions, viz. a shower of blew bonnets seen in the air at Glasgow, and vanished when they came near the ground. Item, a shower of blood at Moffet: and a little ghost and spectre appears at Rosneath, one of my Lord Argile's houses, where Athole has got his locality, and placed a garrison of 50 men; it beats the soldiers sometimes, and bids them make good use of their tyme, for it shall not be long. But many of these things are forged.

The Earle of Sunderland, on of the 2 secretaries of England, was designed to be advanced to be Hy Tresurer, so that our Earle of Midleton is at present sole Secretar of England.

Doct^r Gilbert Burnet having preached at the Master of the Rolls chappell on the 5^t of November last, being the commemoration of the Gunpowder Plot, he cited ane expression of Sir Edward Cook, Lord Cheiff Justice in King James the 6th tyme, that he heard King James had intayled his curse upon any of his posterity who should apostatize from the Protestant religion to Popery; he being quarrelled for this, and having produced the book, licenced to be printed, and of ane famous author in great reputation, he was silenced and deprived, as not having sufficient authority and voucher for such a *scandalum magnatum*, unlesse he could show the expression in any of King James's oune printed works. It was cited out of Judge Crook's Reports.

23 Dec^r 1684, Mr. Rot. Bailie of Jerefwood is pannelled for hy treason, and condemned on the 24, and hanged and quartered that same day: (see the full account of this tryall in my folio law manuscript at that day, page .)

25 Dec^r 1684, being Chriftnas, the Archbischops of Glaſgow and St. Androis are translated, and the Bischop of Brechin consecrated: (see that also ubi supra alibi, item, supra, pagina 71.

About the same tyme, we had account that the French King, as he was hectoring the Republick of Genoa, in Italy, unlesse they would send their Doge and 4 of ther senators to Paris, to crave him pardon, (de quo supra, page 65); so he renewed his persecution against the Protestants, by cruall edi^cs; and particularly, he commanded thosse of the Consistorie of the church at Charenton, to give in an inventar of their revenues, and to answer by what warrand they met their; and they shewing ane act of King Henry the 4^t, he was resolved to cause demolish P. 75. that church, and send ther meeting-house to Ablon, (wher formerly the

Protestant church for Paris stood,) a great way farther off. It's reported, the learned Monsieur Claude, minister at that church of Charenton, is very sick.

In December 1684, news came by ships from the East Indies that the Tartars had of new invaded China, and overrun and conquered all that great country, and had banished the factors, and refused any commerce or trade with Europe.

ANNUS 1685.

IN the beginning of this year, on James Cathcart, a pretended mathematician or astrologer, emitted a printed paper at Edinburgh, inviting any to come to him and get resolutions of any difficult quæstions they had to ask, such as anent ther death, ther marriage, what husbands or wives they would get, and if they would prosper and succeed in such projects of love or journeyes, &c., and if a woman was with child of a boy or a girl, and other such curious things; as also, professed skill to cure the French pox, and other diseases. This was a great impudence in a Christian Commonwealth to avow such ane art, for if he had it by magick, then he was a forcerer, if not, he was ane impostor and abuser of the peeple, which even is death by our 73 A& Parl. 1563; and in his paper he cited some texts of Scripture allowing ane influence to the stars; as

Ther was also, at the same tyme, another printed program affixed by 2 souldiers in Collonell Douglass's regiment, to show ther skill in fencing, appealing on another at broad sword, dagger, fancion, and all the other weapons;—they wounded on another slightly:—their was a litle money payed for a fight of this gladiatory joco-serious divertishment.

Ther fell out a great plea, at this tyme, betuen the Prince of Orange and the town of Dort, he clameing the nomination of ther burgomasters and magistrats, and they refuseing him the priviledge; it was manadged with great animositie, but at last the Court at the Hague gave sentence in favors of the Prince, and put him in possession. What Amsterdam feared from the Prince we know not, but all ranks of peeple, great and small

without exception, ware employed in repairing and fortifying their out-works and bulwarks, without so much as fitting idle on the Sabbath day; and in the tyme of frost they threw water on ther ramparts, which freezing, made them so slidery that none could stand or goe theirupon, which extorted laughter from others.

The Marquis De Grana, governor of the Netherlands, his 3 years being expired, it's reported, the King of Spain, his master, resolves to continue him longer therein; tho ther bygane practise hes been for a triennial change, leift they should render themselves popular by a too long stay.

The few handfull of phanatick rebels left in the West turning very insolent, the Hy Treasurer (to put a rub on Claverhouse, who had been lately ther in December last, and could not wholly suppress them,) causes his brother, Collonell James Douglas, select out of his wholle regiment 200 of his prettiest men, and by order from the Privy Counsell sends him against these rogues, that the glory of defeating them might fall to his share. And accordingly Douglas, being on day in the fields in Galloway, with a small party of 8 or 10, he meets with as many of the rebels at a house, who kill tuo of his men and Captain Urquhart, Meldrum's brother, and had very near shot Douglas himselfe dead, had not the Whig's carbine misgiven, wheron Douglas pistoled him presently. Urquhart is the only staff officer this desperat crew have yet had the honor to kill; he was brought in to Edenbrugh, and buried with much respect.

They came a company of them to Kirkcubright and killed 2 men, and caused a minister called Mr. Shaw, to swear he should never preach again in Scotland; and the Bischops offering to loose him from this oath as unlawfull, he refused ther absolution, alledging, it would have been unlawfull to have sworne never to preach again, but he had only bound up himselfe from preaching in Scotland, and tho extorted by fear of life, yet it was safest to keep it.

P. 76. In Januar and Februar 1684, ware held by his Majesties order, Circuit

Justiciarie courts, for voluntar offers of Cesse, and taking the Test by heritors within the toune of Edinburgh, the 3 shires of Mid, Eist, and West, Louthians, for Fyffe, and Murray betuen Spey :—see it at lenth alibi.

On the 2d of Februar 168 $\frac{1}{2}$, being Candlemasse day, in the morning, our King fand himselfe ill when he rose, and his tongue was observed to falter when he spoke ; and having called for his barber, a convulsion fit of ane apoplexie feized upon him, and drew his mouth asyde ; he lay fencelesse in it ane hower and a halfe, and 12 unces of blood being drawen by a chirurgian near him, without physitians, for which he might be questioned, and coupling glasses applyed to his head, he started, but relapsed again, and lay in it some howers, and his arme at which the blood was let withered. But he revived and continued in a hopefull way of recovery to the 5th day of Februar, being Thursday ; and then the fits recurring, he fell so weak that he dispaired of life, and very stayedly composed himselfe to dy, called for his brother the Duke of Albany, craved him pardon if ever at any tyme he had offended him, and recommended to him the care of his Quean and children, and delivered him some papers, and intreated him to maintain the Protestant religion ; and took very devoutly the sacrament from the hands of Doctor Can, Bischop of Bath and Wells, and regrated he should be so troublesome to his friends as to keip them from rest waiting on him. His Quean, throw sicknesse, not being able to come to him, sent to ask his pardon and how he was ; he answered, “ Ah, poor Lady, many a tyme have I wronged hir, but shee never did me wrong.” He dyed peaceably on Friday at 12 a cloack of the day, being the 6th of Februar, being but 4 days ill. Immediatly the Duke of York called his counsell, and had words to this purpose :—“ My Lords, the Croun is now deschended upon me, I doe declare I will never alter the governement as it is now establisshed, both in Church and State, and I will sacrifice the last drop of my blood to maintain the Protestant religion, and as far as it lyes in me I will follow my late Brother’s example.” Yet his printed

speech (tho longer) is not so full and satisfactorie on the point of religion as this is. Then he took all his brother's Privy Counsellors sworn to him; and not only continued them, but by a printed Proclamation, continued all other judges and officers till he declared his farder pleasure, or considered their mismanagements. Then they with the Mair and sheriffs of London, proceeded to the proclaiming him King; and expresses were dispatched away to Scotland and Ireland with the news. It arrived at Edinburgh on the 9th at night late; and he was proclaimed King under the name of James the 7th the next morning, at the Mercat Crosse of Edinburgh, by the Chancellor, nobility, bishops, and magistrates, (see it alibi;) but peoples grief was more then their joy, having lost their dearly beloved King. He was certainly a prince (whose only weak side was to be carried away with the pleasure of women, which had wasted and decayed his body excessively, tho he was only 55 years old,) indued with many Royall qualities, and of whom the Divine providence had taken a speciall care by preserving him after Worcester fight in the oak, and bringing him miraculously home without a drop of blood shed; so that the Emperor of the Turks said, if he were to change his religion, he would choose to worship before any, the King of Brittain's God, who had done such wonderful things for him. A star appeared at noon day at his birth; he was a great mathematician, chemist, and mechanick, and wrought oft in the laboratories himselfe; he had a naturall mildness and command over his anger, which never transported him beyond an innocent puff and spitting, and was soon over, and yet commanded more deference from his people than if he had expressed it more severely, so great respect had all to him. His clemencie was admirable, witness his sparing of Oliver Cromwell's bones, tho one of them had usurped his throne. His firmness in religion was evident; for in his banishment he had great invitations and offers of help to restore him to his crown if he would turne Papist, but he alwayes refused it. As for his brother James, now our present King,

he is of that martiall courage and conduct, that the great Generall Turenne was heard say, if he ware to conquer the world, he would choise the Duke of York to command his army. All our 6 King James's in Scotland were gallant men, tho somewhat unfortunat. Cauffin is impertinent, in his Holy Court, to assert that good Kings ware so rare, that the circle of a ring could hold all ther names. Many wondred to see his peceable arri-veall to the Croun of England, confidering the many attempts had been made against him by the bill of seclusion and association, wheirin the late King carried with admirable prudence and circumspection; for in April 1679, he offered to them, (if they would lay aside ther demands of debar-ring the lineall successor,) in case of a Popish King, that the Parliament should have power to reassemble and sit for six moneths, till they secured all places in Protestant hands, with many other concessions; which Shaftf-berry and his party rejected. If God had in 1679, or shortly thereafter, called for the King, his brother would not have found so easie access to the throne; but that prevalent faction would then have set up Monmouth, who, in that brash the King then took, enhanced the custody of the King totally. But Divine providence has been very favorable to him, in sparing the King till *cunctando* they had dissipated that gathering cloud, and that the people were somewhat recovered of these fears and jealousies, with which they were tormented; besides, 2^{do}, It was a surprize throw the suddenesse of the King's death, and his Brother was put in possession, and his forces about him, ere they got leasure to think; 3^{tho}, The City of London is infinitely rich by ther long peace and trade, and so lyes quiet, leif he put forth his hand to ther treasure; 4^{tho}, Both Quean Mary and Elizabeth were secluded by Acts of Parliament, and yet the naturall channell of succession was so just a plea, that they obtained peaceable possession. And the present King hath gained the reputation of a just Prince, and serious and frugall, ane ennemy to all luxury and vice, addicted to trade, and ane encouradger of all seamen and souldiers, and very rich. Many addressees

came flocking to him from all degrees and ranks of people, congratulating his ascent to the crown, as from the Bishop of London and his clergy, from the lawyers and Innes of Court, from many burrows; as also, our Bishops and Privy Counsell, and towne of Edinburgh, sent up such addresses. He issued out a Proclamation for exacting and uplifting the tunnage and poundage with the excise, and instances that he had the opinion of his judges for it, tho some of these had only been granted during the last King's life, and had created much stir and trouble in King Charles the 1st reigne; but he mollified them by calling a Parliament to meet the 29th of May, which was looked on as a bold attempt, his brother, P. 78. these 4 years, not adventuring on it, thir Parliaments had turned so capricious; but he thought it as good to try them now as afterwards. See the A& continueing the tunnage and poundage, in Rushworth anno 1640, declaring it to be given by way of favor, its page 1382; see infra more p. 80. For sparing his revenues, he restricted his brother's 12 bed-chamber men to six; and in place of his brother's naturall sone, Dom Carlo, Duke of Lennox and Richmond, by the Dutchesse of Portsmouth, who was master of the horses, he puts in Collonell Leg, Earle of Dartmouth; and creates Laurence Hyde, Earle of Rotcheester, to be Hy Treasurer of England; and the Marquis of Halifax to be President of the Privy Counsell; and Hyde, Earle of Clarendon, to be Privy Seall; and Somers, Duke of Beaufort, formerly Marquis of Worcester, to be [Lord President of Wales.]

On the 14 of Februarij 1685, the late King is privily interred in King Henry the 7th Chappell at Westminster, his Royall Hynesse the Prince of Denmark (who is now created a Privie Counsellor,) being the cheiff mourner. It was alledged, to have been the King's own desire to be so interred; others said, it was unfit to make a publick solemnity, unlesse it had exceeded in splendor Cromwell's funerall, which would have been very expensive. These restless and lying phanatiques whispered, they did not

love his sudden buriall, as if it had looked like fould play. Then ther was ane order to all the churchmen, to raze out with a pen the name of Charles, in all ther service books, and infert James and Marie, and ther Royall Hynesses [Mary] Princeffe of Orange, and Anne Princeffe of Denmark. The Lord Churchhill is sent away Ambassador to the French King, to give him account he had succeded to the Croun. And the Dutcheffe of Portsmouth is desired by him not to part from England till she satisfy such of his subjects as are hir creditors. She was likewayes transporting 50,000 lb. sterling in gold and jewells privatly; but the customers seized on it: shee hes a fair estate before hir already. I forbear to insert heir what passed in Scotland on this emergent and revolution, and anent the calling a new Parliament to meet with us on the 9th of Aprill, &c.; because I give a full account of them in my folio law manuscript, in this moneth of Februar 1685, and so shunns repetition heir.

Charles the 2^d fell with few or no prognosticks or omens praeced-
ing his death, unlesse we recur to the comet in 1680, which is remote, or
to the strange fishes mentioned supra, page 72, or the vision of blew
bonnets, page 74; but these are all conjecturall: vide supra Holwell's
Prophecies in his Catastrophe Mundi, page 55 supra; item, the double of
Sir James Galloway's prophecies besyde me; wher he sayes,

J. R. shall into saddle stryde,
And furiously to Rome shall ryde,
His principles no longer hyde, &c.

In none of which ther is anything for a rationall man to fix his belieff
upon. The King, the Sunday immediately following his brother's death,
went openly to his Quean's popish chappell, and heard Masse, and
declared, that when he was a subject, he had that respect for the laws
of England, that he would not break them, but now as King, being
above the executive force of the law, he owned his religion, which was
judged ingenuity. Some Popish Peers and others having petitioned

him for the publick use of a church, he denyed it, and told them, they beguiled themselves if they expected greater freedome from him then they enjoyed under his brother. But in regard of his oune private perswasion, [as] he could not weill exerce the ecclesiasticall authority inhaerent in his croun, he granted a full commiffion, under the broad seall of England, to the Bifchops of Canterbury, London, Chester, and Ely, who is Dr. Turner, to be his delegats in all church affairs; which was the more noticed, that London and Chester ware for the bill of seclufion againft him. This was better lodged then by King Henry the 8^t, who named the Lord Cromvell, a layman, his vicar generall *in spiritualibus*, when he fhoke of the Pope's supremacy. But many thought our King could not delegat any intrinfick power, or church jurifdiction, only to 4 Bifchops privative of the rest, it being competent to the wholle body. Then, to discouradge debauchery, the

- P. 79. King emitts a proclamation againft drinking, fwearing, &c., and declares he will retain no fervants guilty of anie debaucherie; and to give his subjects a good example, he difmiffes Madame Sidely, his Quean's waiting woman, with whom he had been familiar, allows her a penfion, and difcharges hir the Court; and confefled, that prophanity was the great blemifh of his brother's reigne, and he would not permit it. His counfell declares, by ane a&t, reverfions and furviveances of offices void and illegall. The Marefhall de Lorge is fent over from the French King to condole his brother's death, and Monfieur Tilly from the Marquis de Grana, governor of the Netherlands, and fundry perfons of honor from the princes of the royall blood of France. But our King hearing how the French King had receaved Churchhill, he payes him in his oune coin, and receives Lorge fitting in his chair of ftate in the gallery with his hat on; which some French refented, tho it may be meer policy, to give it out that ther is a mifunderftanding between the 2 kings, to please the Englifh. The laft King admitted embaffadors without any pomp or ceremony, to fpeak him ftanding in his bedchamber with his hat of.

The change upon the face of the English court is very remarkable : in the last King's tyme mirth, playes, buffoonerie, &c. domineered, and was encouraged ; now, ther is litle to be seen but serioufnesse and bufinesse, for *Regis ad exemplum totus componitur orbis* : he is grave, and of much application to public affairs ; and the same imitation also holds in religion ; Jeroboam turns idolater, the wholle ten tribes of Ifrael set up idolatry, and and desert God's true worship, so ane idolatrous prince is a great misfortune ; yea, Ifrael was punished for ther king's fault, viz. David's numbring the peeple ; (see Camerarij *Horas Subfivias, seu Meditationes*, tomo 1, cap. 66.)

A proclamation is ishued out, that the King designes he and his Quean should be crowned on the 23 of Aprill nixt, being St. George's day ; and ordaining all the peers and peereffes, (the peereffes most attend the Quean in scarlet robes and coronets) with the Mair, (who is to be cupbearer that day,) and aldermen of London, &c. to attend the solemnity, and all who by ther tenures and holding of lands, are bound to homages or particular services on that occasion ; as the family of Dinmocks (mentioned by our Craig, Feud. lib. 3^{to}. page 314, and Baker in his Chronicle, page 140, life of Richard 2^d, and 769 at K. Charles 2^d's coronation,) who, as the King's champion, appears that day on horseback, and throws doune the gauntlet, and appeals any to combat who will question the King's right to the crown. What the coronation of the Quean imports is doubted, if it will make hir regent after his death. A massie crown of gold is making for hir. Our Commons took up a jealousie that the Scots crown was to be sent up to Windsor, that he might be also crowned with it. When our Mary was espoused to the French Dauphin, it was demanded, that our matrimoniall crown might be sent over to Paris to crown hir and him *jure mariti* their, but it was refused. This vulgar fancy was as true as the other, that the King was sending doune from Westminster our fatall marble chair, wheirin our kings of old ware crowned at Scoon, and was removed hence by Edward Langshanks, King of England, in our Balioll and Bruce's tyme,

wheirof the prophecy runs, hitherto verified, "*Ni fallat fatum Scoti, quocumque locatum, &c.*" The New Help to Discourse, pag. 105, sayes, this marble chair is the ston Jacob slept on going to Padanaram.

It was more dubious how his Majesty would behave with the Coronation Oath, oblidging him to maintaine the Reformed religion of the Church of England; if it would be altogether omitted, or a new generall Oath framed. I know not if, when he touches to cure the kings' evill, he adhibits a Protestant bishop or a Popish to read the liturgy and prayers used in his brother's tyme on that occasion, or if he touches without any prayer at all.

Wryts are isshued out for the meiting of the English Parliament on the 19 of May, and loyall persons in severall places are choisen for members of the House of Commons, tho the phanatique Whig partie ware very busie to influence the elections; but the King came to have a great interest over the tounes, by annulling ther charters, and naming ther Mairs.

4^{to} (2^{do}) Martii 1685. His Majestie's indemnity to the Commons of Scotland arrived, and was proclaimed; (see it in my law M.S. at large).

Sir Harbottle Grimston, master of the Rolls, a very old man, and Speaker of the House of Commons at his late Majestie's returne in 1660, dyes now, and is succeeded by [Sir John Churchill.]

P. 80. The Quean Dowager of Denmark, mother to Prince George, our present King's son in law, dyes at this tyme.

The Prince of Orange assures our King, his father in law, that he will not converse with nor receipt the Duke of Monmouth any more; so that he, Argile, Melvill, Stairs, &c., will scarce look on themselves as secure any more in Holland. The Marquis de Grana sent to the Duke of Monmouth and the Lady Wentworth's lodgings in Brussells, and commanded them to remove.

Two of the Peers of England, viz. the Duke of St. Albans and Earle of Carnarvan, had a great debate at the Counsell board, which of them

had the best right to be master of the King's haulks; the case was argued by their learned counsell.

Many printed poems came abroad on the King's death, but Flatman and Dryden's appeared to be the best.

Floyd, Bishop of St. Asaph in Wales, having last summer published a book anent Church Government in the Ile of Brittain, he, out of emulation, curtails our Scots historie as fabulous, and will not allow us to have come from Ireland and settled heir till the year 500 after Christ. In March 1685, came forth Sir George Mackenzie, his Majesty's advocat's printed Answer to this book, full of smart and polite learning, shewing how injurious the Bishop is, not only to our whole nation, but to our kings, by this calculation lopping of 45 of their royall ancestors, and seems to refute him with great conviction and satisfaction, if a Scots testimony be not *nimis amicum* in this case, and so to be suspected. The King's advocat got great helps from others in the compiling this book, and amassing ancient historians and citations.

His Majesty having thought fit to call up our Chancellor and Treasurer to consult who should be his Commissioner to our Parliament, and to give them his private instructions thereanent, they parted on the 7th of March, and arrived at London on the 14 March thereafter; (see this at more length alibi.) Our Archbishop of St. Andrews having, in the Bishops' addresse to the King, craved leave to goe up, and getting permission, went away some dayes before our great men to Court.

Sir George Wakeman, physitian to the late Quean, and who was accused by Titus Oats (who is now kept in irons till he be tryed the next terme, de quo supra,) as having undertaken to poison the late King, and escaped by ane Ignoramus jury; now, on the news of the King's death, he returns openly back to England with his lady and family.

Having red the addresse of the barristers of the Inner Temple to the present King, they thank him for continueing the uplifting the customes,

and tunnage, and poindage, for 2 reasons; 1^o, That without them the necessities of the Government cannot well be supported. 2^{do}, That if the exacting of them were delayed till the Parliament fate to renew them, ther should, in that intervall, be more export and import then should underfell all already imported, (being custome free) and then would serve the nation for many years, which would, during all that tyme, diminish that branch of the royall revenue; and that ther kings always keiped possession theirow, and ware never questioned by the Parliament but in the rebellious year 1640; for its a maxime of the common, *Thesaurus regis est vinculum pacis et bellorum nervi*, a rich king keeps his peeple in peace and aw, wheiras a poor prince, &c. can nather protect them, nor is feared.

In our gallery of the Abbey ther is set up the pictures of our hundred and eleven Kings since Fergus I., 330 before Christ, which make a very
P. 81. pretty show, and the eminenter of them are done *ad longum*. They have guessed at the figure of ther faces before James the I. They got help by thesse pictures that ware used at Charles I's coronation in 1633, wher they all met and saluted him, wishing that as many of ther race might succeed him in the throne as had preceded him.

The King having a particular kindnesse to the Duke of Grafton, on of the late King's naturall sones by Barbara Williers, Dutchesse of Cleveland, because he ordinarily owned the Duke of York's interest against Monmouth, he created him governor of Suffolk, which formerly belonged to the Earle of Arlinton, his father in law; and did order North Lord Guilfoord, keiper of the Great Seall, to ishue furth a writ to call him to sit in this Parliament, tho by his age of minority, within 21 years, he was not yet capable in law.

The King erects a Court of honor wher all such questions and debates may be legally determined, and declares, if any presume by duells, or other wayes, to take reparation of injuries, they shall be punished with the greatest rigor. See Rushworth's Historiall Collections, tome 2 part 3^d, anno 1639, page 1054, anent such a Court of honor in King Charles the

1st tyme voted a greivance, and some decifions theirin; as also his account of the intended open duell betuen Ramsay and the Lord Rae, anno 1631, page 112; item, anno 1638, betuext Claxton and Lilburne ther tryall by battell, page 788.

In the end of March 1685, some of the discontented peeple who fled from our Western circuit to Ireland, being now perswaded ther to take ane oath, they, to the number of 100, forced some boats and came back to Scotland; (see of it in my folio law manuscript, at that tyme, page .)

The King having thought fitt to make the Duke of Queensberry, treasurer, to be his Commiffioner to this Parliament, and given him his privy instructions, he honored him and our Chancellor by making them both Privy Councillors in England; and after a short stay they parted, and arrived at Edinburgh on the 8th of April 1685. Tho the Lords Carnwath, Aberdour, Lundoris, &c. ware seiking to carry the purse before him, yet he gave it to his 2^d sone: it hes £5 sterl. a-day of salary, and he hes £50 sterl. per diem. The King hes sent down some rich furnitor to remain in his palace of the Abbey: Mr. Auchinmooty is keiper of the wardrope with us. They say the Commiffioner hes power to creat 12 knights; former ones had but 6.

We heard, that the Maior of the toune of Newcastle under the Line, in Staffordshire, did solemnly put on a bonfire and burn therein the bill of seclufion, passed by the late House of Commons, againft the present King, with the black box anent the late King's being married to the Duke of Monmouth's mother, and some of the votes of the late House of Commons, which smelled of disloyaltie againft the late King. On is found guilty of treason in England, for saying the Duke of Monmouth was righteous King.

On the 18 of April, being the vigil before Easter, the King washed 52 poor men's feet, according to the number of the years of his oune age, and he touches severalls for the King's evill. He emits a new severe Pro-

clamoration againſt duells, and certifies, whoever intices another, or brings a ſecond with him, he will pardon none of them.

On the 23 of Aprill, being St. George's day, the King and Quean were crowned at Weſtminſter, by the Archbiſhop of Canterburie, and took the coronation Oath, and heard Turner, the proteſtant Biſhop of Elie, preach a ſermon before them; (ſee the formula of his coronation, inthronization, and inauguration, in print beſyde me.) Their ware ſcattered amongſt the people about £500 ſterling's worth of coronation medalls, made of purpoſe, with fundry emblems, of ane eagle trying hir young ones by the ſun, &c.

- P. 82. It is very far ſhort of the ſplendor of his Brother's coronation in 1660, for it wanted the ſolemne cavalcade from the Tower through the city (which I believe would have been peaceable enOUGH,) to Weſtminſter, with the many triumphall arches by the way, (the deſcription wheiſof ſee in print beſyde me, as alſo in Baker's Chronicle, page 769.) Its like it was to ſhun expence to himſelfe and the nobility, whoſe fortunes are low. See the ancient forms of the Engliſh coronations in the life of Richard the 2^d, in Hollinſheed, and Baker page 140; and alſo anent the challenge given by Dinmock, the King's champion, ſee Craig, Feudorum libro 3, cap. 1^o pag. 314. It hes not been ordinar to crown Queans, unleſſe wheir they ſucceid failzing of male iſhue; yet I find Henry the 8^t complimented Anna Bullen, his lemman, and cauſed her be crowned. By ane a&, the King declared that the Quean, on hir coronation day, would releaſe all priſoners for debts within £5 ſterling, by paying them, wheirby 80 ware liberat in Newgate. Shee was not crowned with the imperiall croun of the kingdome of England, but by a golden croun, made of purpoſe, worth 300,000 lb. ſterling; the jewells ſhee had on hir ware reckoned worth a million, which made her ſhine like ane angell. All the peereſſes ware richly attired, and with ther coronets on ther heads. The King intended to have publiſhed a pardon, (as is uſuall at coronations,) but he forboor it till he ſhould doe it in Parliament. See the forme of our Scots corona-

tion, how it was performed at Scoon in 1650 to King Charles the 2^d, with Mr. Ro^t. Douglass his sermon, all in print befyde me. Item, King Charles I. coronation at Halirudhouse in 1633, in Rushworth's Collections at that year. They say, our present croun is not the ancient croun of Scotland, but was casten and formed of new by King James the 5^t, and that, at our coronation in Scotland, (when our present King's affairs will allow him to come and receave our croun,) he intends to revive our ancient order of the Knights of St. Andrews or the Thriftle, which hes sleept in defuetude since the said K. James the 5^ts death: see it mentioned in Monfieur d'Avities World, tome 1, page 331, et seq.

The English coronation oath is not verie speciall as to the Protestant or Popish religion, but runs in somewhat general termes. Of the antiquity of coronation oaths, see remarks made by me alibi, from J. Taylor's Ductor Dubitantium, and others. Ther was above 1000 dishes of meat at the feast, which followed the coronation, and many curious fyreworks; and in many townes of England the magistrats used a solemnitie and publick expreffions of ther joy that day. At the coronation, the Te Deum and Veni Creator ware sung; but the narrative does not tell whither thir anthems ware sung in English or Latin, after the popish manner. Among other verses made on this coronation, (to see which shew many crouded from France and Flanders,) Elcana Setle, once the Whigs' poet, now fallen of, made a heroick poem, wher he brings in Shaftsbury, Effex, and Ruffell, (whom he calls G. Burnet's reforming pupill,) gnashing ther teeth and shaking ther snakes in hell, at the news of the Duke of York's coronation as King, and calls Monmouth,—that skulking, litle, wou'd-be-King.

Eodem 23 Aprilis 1685, did our Scots Parliament begin and ryde; but because I have sequestrat a 4to. MS. apart for the passages and occurrents of this our Parliament, (wheir they may be red at great lenth,) with a litle abbreviat of them in my folio law MS. in April 1685, theirfoir, to avoid repetitions, I shall forbear to say anything more heir.

- P. 83. A rumor coming from Holland, that some ships were preparing their with powder and armes to land in Scotland ;—this put our statemen in an apprehension from Argile, and to put the country in a posture of defence. See it in my law MS. page ; see infra more of this, p. 85.

John Inglis, captain of a troupe of dragouns, lying in garrison at Newmills in the West, a house belonging to the Earle of Loudon, having tane some of these phanatiques prisoners, and tho he had power to execute them, yet keeping them alive, some of these desperat comrades breaks in upon the garrison, and rescues them to their great shame ; for which Inglis was degraded, and his place was given to Mr. George Winrahame, a bigot papist.

In April 1685, the Doge of Genoa and 4 of the Senators arrive at Paris, to complement that King, and crave him pardon for assisting Spain against him. (See of it supra pages 65 and 74, and the next page.) His Ambassador also gives in a memoriall to the Spanish King ; bearing, that he hears that the Duke of Bavaria is going to marry the Archduchess, one of the Emperor's daughters ; and that his Catholique Majesty of Spain resolves to bestow the Spanish Netherlands on Bavaria, at least to make him Governor thereof ; which, if he does, he will esteem it a contravention of the 20 years' truce made betwixt them, seeing the state of the Netherlands has not to be innovated during that time, especially by transferring them *in potentiorum adversarium* ; and that he would esteem it an invasion on his side, the Dauphin's right of succession to the Netherlands by his mother, and of his grandchild the Duke of Burgundie's right, in case the King of Spain should happen to decess without children ; and therefore he would resent it to that degree, that tho he would keep the truce in Flanders, yet he would carry the war into the bosom of Spain. The Spanish King having advised with his counsell, returned this answer, that what he heard was news to him, and he resolved firmly to keep the peace. The French Ambassador took it for a tacite allowance, and concession of the Dauphin's right, that

the Spaniard took no particular notice thereof in his answer, which is catching at shadows. The whole 17 Provinces, if in one hands, as they were in the tyme of the old Dukes of Burgundie, wold make a great kingdome, if the Emperor bestowed the tittle of it on Bavaria, or any other.

The Princes De Conti and Roche-sur-Jon, and fundry other of their noblesse, from a principle of gallantry, contrare to ther King's prohibition, have stollen out of France, and gone to Hungarie, to assist the Emperor against the Turk.

The dyet of the Estates in Poland meet at this tyme, and are divided. Some moved for an act of exclusion of any from their crown who marries with a forrain prince, because it gives other kingdomes a great interest and influence among them; as they find by ther present king Sobietzkies being married to a French ladie.

A Scots minister called Mr. Alexander Taylor, [Tyler] curat at Kinetles, in Angus, hes printed at this tyme a large poem in English, of all the memorable acts of John Sobietzki, King of Poland, and particularly his relieving the siege of Vienna, supra, in 1683; with a Latin præface to him, and Prince Alexander, his sone.

In Aprill 1685, a shoemaker's wife in the toune of Selkirk, in the south of Scotland, brings furth a monstrous child with 2 heads, 2 hands, 2 feminine privities, and under that had the shape of any other child:—see Buchanan, in our chronicle, anent the extraordinary monster born in King James the 4th tyme, which lived till it was 28 years old; likewise remembered by Philip Camerarius in his *Meditationes Historicae*, or *Horæ Subcivæ*, tomo , cap. , page .

In Aprill 1685, the Secretary Lundy, and Tarbet Clerk Register, were p. 84. created Vicounts by the King; (of which see more alibi, in my folio law manuscript.)

16 Aprilis 1685. Our late King's statue was erected on horseback in the Parliament Cloffe at Edinburgh; (see notes on it, in my folio law manuscript, at that day.)

The Dutch embassadors who ware sent over to England, to congratulate the King's arriveall at the croun, when theyr ship came by the fort at Gravesend they streiked their sail, but after they had passed they put it up again; wheirat the Governor of the fort being offended, he shot at them, that they might lower both sail and flag; this they took as an affront and indignity, and would not come up the river till they had acquainted ther masters the Stats theirwith. It was alledged, within the King's river they could not carry ther flag. However, being to treat about the affair of Bantam, (wher the English suspected the Dutch had stirred up the native Indians to dispossesse them,) this difference was composed.

When the Duke of Genoa, &c. (de quo supra, pag. præced.) ware ready to make ther appearance, and get audience, the King of France had notice from letters intercepted by the Duke D'Estrees, that ware directed thus, To the Most Serene Doeg and Senate of Genoa; wheirat he stormed, and said, If they had 2 Dukes, one at Genoa, and another at Paris, he would have both come and submit to him. The Duke answered, that, by the constitution of ther Gouvernement, when the Duke was absent, the power of the Republick devolved on the Senate, who choised a præses. He being at last appeased by the mediation of the Pope's nuncio, and others, they ware admitted, and made a very splendid appearance, the Duke having 5 coaches of his owne, and being in a crimson velvet gown, and was looked on as a man of fence and good parts. The French King having satified his ambitious humor, gifted each of them a gold chain and some tapestrie.

The terme being set down at London after Easter, Titus Oats is tried for perjurie before the Lord Cheiff Justice, Sir George Jeffries, who is now made by the King a Lord Baron of Parliament; (see a litle of this supra, page 73.) His tryall began on the 8^t of May 1685. Ther was 47 witneses led against him, wheirof only ten ware Protestants; they

swore, that from August 1677, till July 1678, Titus Oates was all that tyme at St. Omers in Flanders, and they saw him their, and consequently he had perjured himselfe, and falsely taken away the lives of Ireland, jesuite, Grove, Pickering, and many others, by swearing he was present with them at London thesse moneths, and at their consults, wher they devised the death of the late King, and the destruction of our religion, and carried them from chamber to chamber to get ther hands and subscriptions theirtō; as also, they bound another perjurie on him. He subpoena'd fundrie witnesse, members of the last Parliament, to prove that both the Houses of Peers and Commons had found the said Popish Plot proven, and that it depended not singlie on his evidence, but many others had concurred with him in ther depositions. Yet this proceedor with Oates (whatever willian he is) seemed strange to some; for, 1^{mo}, That ther was such a plot as he discovered is evident beyond all contradiction, (tho some of his circumstances might be added,) by Coleman's letters, Edmondbury Godfree's murder, the notes of Parliament, the late English Chancellor's confession, &c.; and that being never yet disproved, why the author of the discovery P. 85. should be thus triumphed over by the Papists. 2^{do}, 37 of the witnesse are Papists, his inveterat mortall enemies. 3^{do}, How could they positively depone, that, for the space of a year, he was constantly at St. Omers, and never in London, for the distance betuixt the 2 is not so great, but in a very few days, yea, in on week, he might be in both.

His sentence, on the 16 of May, was, first, to be degraded from his doctorall and preistly office and vestments; 2^{do}, to be 2 severall days scourged; 3^{do}, to stand 3 severall dayes on the pillory; 4^{to}, to pay 1,000 merks sterling fyne for each perjurie; 5^{to}, to suffer perpetuall imprisonment; 6^{to}, to be pillorized annually 3 tymes a year. This great severity was execute on him because ther law does not punish perjurie with death, (tho this ignominious sentence to ane ingenuous spirit is worse then hanging;) of old it was capital; then, the cutting the tongue; at last, they mitigated it to whip-

ping and pillory. This rigor was tryfted with the fitting doune of the Parliament of England. He boor this with ane impudent courage, and mocked the court, and boldly told, he was fuffering all this for the truth, ouning all he faid was true. Our printed relations boor, that the common peeple ware furiously intraged againft him, calling him 100 bloody rogues and villians; which, if reall, is a true character of that beaft the populace, for within theffe few years they ware crying him with Hofanna's as the great favior and preferver of the nation; now the mobilee cryes Crucify, &c. However, it appears all the vulgar did not take pleafure in his fuffering, for fome of them brook the pillorie wheir he had ftood; for which feveralls ware apprehended and punifhed. It was alledged, the hangman favored him in the 1st whipping. His fifter gave in a petition to the Court of King's Bench, to remit the 2d fcourging; but the anfwer thee got was, he deferved to be hanged, and he fhould have no favor. (Vide infra, page 104, ane act againft perjurie, and Dangerfield's cafe.)

On the 15 May 1685, we had ane account from Orknay, by Mr. Murdoch Mackenzie, bifhop ther, and others, that the late Earle of Argyle had touched their with 3 fhips, (de quo fupra, page 83;) and having fent Mr. William Spence, who lately was tortured by the Privy Counfell, and on Mr. Blacketer, ane outed minifter's fone, on land to try the pulfe of the peeple, and they being apprehended and brought in prifoners to the Caftle of Kirkwall, he fhoot of a long boat with 50 men, and they feized on 7 perfons, 3 gentlemen of the name of Grahame, and brought them prifoners to his fhips. Then he wrote a letter to the Bifhop craving back his tuo men, otherwayes whatever ufage they met with, the hoftages he had tane by way of reprifeall fhould meit with the fame. But the Bifhop refused; wheiron, he took a vefsell lying ther with meall and money, and fayled about the North Iles; and within a few dayes we heard he was come towards his oun country, in theffe Western Seas, betuen Scotland and Ireland, and had firft landed at the Caftle of Dunfarnage, (wher our marble

chair long flood;) then he entred Kintyre, and Campbeltoun, and the Ile of Bute, and plundered meall and cattell and all that he judged for his use. It was reported, he had about 500 weill appointed men with him in armes, and about 20,000 stand of armes for horse and foot, for he expected many both in England and Scotland would run in and joyne with him; and he emitted 2 Proclamations and Declarations; on, a very long deduction of all the grievances thir nations hes groaned under thesse 20 years, with a specious pretence of religion, now made threadbare by all rebells. The shorter on shews, he is only come to recover his estate unjustly tane from him, and to vindicat them from the usurpation and tyranny of the present King; and in the long on he insinuates, his brother the late King was dispatched P. 86. to the other world by unlawfull means, and that he is restored to his estate by the righteous air, meaning Monmouth, and therfor requires all his waffalls to come in to his assistance. Campbell of Auchinbreek (who holds his lands to be Lieutenant Generall to Argile, but this will not allow him to help Argile against his King,) came in to him with 200 men; for which a summons of treason is raised against him in order to his forfaitor. Argile, minding the former animosities and discontents in the country, thought to have found us all alike combustible tinder, that he had no more adoe then to hold the match to us, and we would all blow up in a rebellion: but the tymes are altered, and the peeple are scalded so severely with the former insurrections, that they are frighted to adventure on a new on. The Privy Counsell, tho they despised this invasion, yet by proclamations they called furth the wholle heritors of Scotland, as weell above 100 tb. Scots of valued year as below it, with the militia and standing forces, which will make a great army, upwards of 60,000 men; but are to be divided in 3 camps, on at Selkirk with Claverhouse, to secure against any insurrection in the borders of England, another at Stirling for the Hylanders, and a 3^d at Glasgow. The Marquis of Atholl was commanded away to Innerarie to assist Ballachan, who had 500 men theirabouts, and the Duke of Gordon was

to joyne him with his men ; and by a speciall commiffion from the King, the Earle of Dumbarton, brother to Duke Hamilton, a ftri& papift, was employed (without taking the Teft,) to command his cheiff with Dalzeel by a cumulative power ; for in a civill combustion, all hands may be fett a work to extinguish the fyre, whither Papift or Proteftant, tho it armes our old ennemies the Popish fa&tion. This hoft and expedition puts the country to a waft expence, more then 2 year's ceffe, and all againft ane inconfiderable ennemy ; but our ftatefmen's fear was not fo much, what Argile could doe himfelfe, (tho many country peeple flocked into him,) as the apprehenfion of the difcontented party in England fhould rife with him under the Duke of Monmouth and Lord Gray, to his affiftance. But the Englifh Parliament complying with the King's demands, and the accord betuixt them, feimed to cut of much of his hope this way, to his no fmall difappointment. It was much debated, who had contributed to the outreiking Argile in this desperate interprize ; for the 30,000 lb. fterling he had been long feiking from England, and which, by the difcovery of the plot ther in June 1683, ceafed, would not have done it. Some fufpected the Count D'Avaux, the French ambaffador at the Hague, whoffe mafter finds this King of a harder metall then his brother, and is willing (tho they be both of on religion,) to cut him out work at home. Others blamed the Eaft India Companies in Amfterdam, becaufe of our King's demands for Bantam. Some named the Duke of Brandenburg. Whowever, ere any rationall men would truft him with fo much money, armes, and ammunition, and before fouldiers would follow him, he behooved to lay a probable plan of his defigne, and convince them it was feafable, elfe they would not part with ther money, nor venture ther lives and fortunes ; and Argile had alwayes the reputation of fence and reason : and if the Whigs at Bothuel-bridge in 1679, had got fuch a commander as he, it's like the rebellion had been more durable and fanguinarie. But now the country is fo frighted and wearied, that it is no wonder they have no propenfity to

join with him; and theſe wild phanatiques in Galloway do even ſtill rail on him, as on who had brok ther Covenant and joyned with the late King and his governors to oppreſſe them, and would have him firſt giving ſignes of his repentance, ere they concur with him; but the truth is, they are inclinable enough to run in to him, but the forces lying amongſt them ſtops and intercepts ther paſſage. Argile did indeid ſend the fierie croſſe (which is a long ſtick fyred at the end, ſet upright in ſome hy conspicuous place, to raiſe the country according to ther cuſtome,) throw his hylands; but ther came not in above 2000 men to him, and many of them joyned throw fear. His lady, and my Lord Neill his brother, and his ſone James, ware ſecured priſoners in Edinburgh, and they ware threatned, that as he uſed the Orkney priſoners, ſo ſhould they be uſed: he had with him 2 of P. 87. his ſones, Charles and John. They report a pleaſant ſtory of on of the Orkney captives, called James Stewart; that he told Argile,—‘I know you have a reſponce that you ſhould have in your company James Stewart, of the blood royall, which you thought would be James Duke of York, the preſent King; but your vizard hes deceaved you, for I am of that name, and deſcended of the Earle of Orkney, who was King James the 5th baſtard ſone.’ Spencee and Blackater ware brought to Edinburgh from Orkney by ſea, on the 6th of June.

At the firſt rumor of Argile’s coming, it was generally concluded to be but a politique ſtratagem of our ſtatſmen, made to give a cullor to raiſe our forces at the ſame nick of tyme with the doune fitting of the Engliſh Parliament; but when it proved reall, our poſture of readineſſe was thought weill tryſted to overaw the Engliſh Parliament. Argile’s firſt cryme was look’t on by all as a very ſlender ground of forfaitor; but his conſpiracy and rebellion ſince hath expounded what he meant by his Explanation of the Teſt too weill. And this invaſion of his hes cauſed the pannells before the Parliament, eſpecially the Cefnocks, to be the more violently infiſted againſt, and ſtopped the mouths

of such as otherways would have ouned them. Captain Mackeinzie of Sidy, having notice of a rendezvous Mr. Charles Campbell was making in Kintyre, he laid himselfe in ambuscade, but being discovered, he only killed 2 or 3 of them, and took as many prisoners.

About the 4th of June, Argyle hearing some of the King's men of war had come to the West Seas, over against Air, he drew in his ships, to evite drowning or burning, into Iland Greg, a narrow creik in Cowell, near Lochfin, and fortified it, so that it would be easie with his cannon to stop all accessse. But the news of this coming to Edinburgh, the statemen thought he had deserted the sea, and now would study to surprize some strent at land, as Dumbarton or Stirling; wheiron the militia of Edinburgh was instantly commanded to march to Stirling, tho it was Sunday. Sir John Cochrane with some of his men landed at Greinock, and being charged by Houseton, Carfeburn and his nephew, my Lord Cochrane, and the gentry of that country, he retired, and they shot ther pistolls after him; but he discharging a canon amongst them, they fled in great haft and disorder, for it is not to be expected that our heritors and militia (the most part of whom are dropping away already, and refuse to swear to ther cullors,) will engage in any action farder then as a reserve, and to make a show, for the brunt of the battle most ly on the Hylanders and the standing forces; but they being few, not 3000 men, and disperfed, cannot be in all places, nor weill spared from the posts they are in, which, if they ware evacuated, the discontented peeple ther might rise in armes upon ther back. On of Argyle's ships chased up a yaught of the King's (for they cannot indure shot) up Clyde, till it got shelter under Dumbarton Castle, and yet it was in such disorder it had few or none of its guns mounted and litle amunition, of which and of armes ther was scarcity enugh; but the King, in the Tygar frigate, with West and Bourn the two English witneses, hath sent doune a great quantity of powder and armes to Edinburgh Castle, to the value of 6000 lb. Sterling. We had likeways ane expresse

from England bearing, that the King's ships had taken at Harpoole, in the West of England, a ship going to joyne with Argile, with 5000 stand of mo armes in it, (but Argile had already mo armes then he had men to give them to, unlesse they be designed for some infurrection in Wales, or some other place in the West of England, wher they are much addicted to Monmouth, and disaffected to this King,) and some Dutch officers. This may give great light (if true) to discover who furnishes this rebellion abroad. Some maliciously said, it was on of the King's owne ships that was taken, and he only gave it out to be a ship going to the rebels, that he might discourage any infurrection in England, (seing the King's good successe,) or any mo to joyne with Argile. Ther was a warrand of our Privie Counsell, that such a number of the militia should be picked out as P. 88. ware the prettiest men, and best armed, and to take the 20 dayes pay or loan money from the rest and dismisse and send them home bare. But Erroll's men at Aberdein made ane uproar and mutinie, and said, they had hearts to fight as weill as they that ware choisen, and would nather returne nor quite ther pay; and being commanded by Boyne to lay doune ther armes, they resisted, and discharged ther fuses and killed some of ther neihbours. These northern shires come hither so willingly, in hope of robbing and spoiling; but our southern militia men hardly waited on this reforme, but many of them threw away ther armes and ran home, and they will never be got obedient to discipline, and orderly, till some of them be hanged, for flieng from ther cullors, and be a terror and example to others. By a Proclamation the exportation of oats and meall was discharged with us, that our armie might be the better served; yet Kelburne, and the other comisars of the army, did cruallly exact 12 and 13 lb. for the boll of meall. (See more of Argile's affair infra, pag. 91.)

In May 1685, dyed with us the Earle of Hadington, a worthy gentleman of much hopes, to the greiff of all honest men. The Prince Palatine of the Rhyne dyed also at this tyme, a young man, our King James's great

grandchild by his daughter. They say, the Duke of Newbrugh, as nearest agnat, (but is a papist, which is sad in a protestant cuntry,) takes possession of his dignity and estate; but his sister, the Dutchesse of Orleans, expects the moveables. Princess Anne of Denmark, our King's 2d daughter, is a little after this brought to bed of a daughter, baptized Mary after the Queen's name.

On the 19 of May 1685, late donne the English Parliament. In preparation theiſto, the King ſent away to Scotland any popiſh officers he had about him, (leiſt the English Parliament ſhould take offence at ther being employed in England,) as the Earle of Dumbarton, Major George Winrame, Captain Maxuell, on Barclay, &c.; and they got all places heir, tho our Teſt be ſtricter againſt them than the English. Then the King created 8 or 9 peers; as Sir George Jeffries, Cheiſſ-juſtice, (of obſcure birth, but bold,) Mr. Jermayns, &c. are made Lord Barons; ſome ſaid, he feared a faction againſt him in the Houſe of Peers, and this was to poiſe and ballance them. The former Kings of England, the very firſt day of the donne fitting of their Parliaments, uſed to declare in a Speech by themſelves and ther Chancellor, the cauſes of his conveying them; the King did not follow this method, but by Guildford, Lord Keeper, deiſed the Houſe of Commons to returne and take the accuſtomed Parliament oaths, viz. ther negative Teſt againſt tranſſubſtantiation, &c., and to choiſe a Speaker, and then he would call them and impart unto them his mind. And accordingly, they having been 2 dayes in taking the oaths and choiſing a Speaker, (viz. Sir John Trevor, whom the King had recommended to them, a lawyer, and who had formerly been on the country ſide, but was now converted,) they preſented him to his Maſteſty on the 22^d of May, who approved of ther nomination, and he modeſtly declined it; wheron he craved of his Maſteſty the 3 uſual præliminaries; 1^o, That the Houſe of Commons might have free acceſſe to his Maſteſtie when ther affairs required. 5th, That what ſhould be uttered in the Houſe might

not be misinterpreted, but the freedom of speech construed to the best and most charitable sense. 3th, That their persons, servants, and goods might be free from arrests, and legal distresses during the Parliament; all which his Majesty, according to custom, granted. Then the King delivered to both Houses his Speech, we have printed; wherein he differs much from his brother's style, and signifies his pleasure in very peremptory terms, that it will not be their best way to feed him from time to time with supplies, for that will not prevail with him to gather them the oftner P. 89. together; then he acquaints them with Argyle's rebellion in Scotland, and hopes they will give him a suitable supply against the same. And they having on the 23 of May signified to his Majesty, that by an act they would settle all the revenue of tonnage and poundage on goods exported and imported, (nota, tho this expired with his brother, yet, *supra* page 77, we see he exacted it still,) with the imposition and excise on beer and ale, given to his late Majesty for his life, that it should be also due and payable to his present Majesty during his lifetime, for they are not so rash in annexing it to the crown, as we, to be a good example, did with our excise; and that they would stand by him with their lives and fortunes against Argyle and all other conspirators; he, (without giving them thanks, as his brother used to do,) with a very dry complement, tells them, they could do no less in consulting their own security. And in his Speech of the 30 of May, he craves a farther supply; and to flatter the genius of the nation, he tells them in a style wain enough, that he hopes to raise the reputation of England beyond what any of his predecessors; and what they shall give him, he promises to employ to no other use than what it is given him for. Whereupon the House of Commons vote him a farther supply upon wines, vinegar, tobacco, and sugar, for carrying on the Scots war, and his other extraordinary expences of the navy, ordnance, &c. Some ascribed this compliance of the House of Commons with the King more to fear than love, and that he took the

true way of treating Englishmen, in King Henry the 8th minatory forme, that as he would invade no man's properties, so he would quite none of his owne rights and prærogatives; and that he began with them as he intended to end: for the old distich holds true, *Anglica gens, optima flens, pessima ridens*; with too much prosperity they turne unsupportably insolent, so that it is not safe to flatter or cajole them; for fundry of the Members of this House of Commons are disaffected, but are borne doune by the major part, who syde with the King, the elections in counties and burrows being so manadged, that by the limitations of the new charters gevin them, and excommunications and other methods used to debar such as they doubted, they got many of them to the King's owne mind; which was a point his late brother could never of late compasse, tho he had as much of his peeple's love as the present King hes, only he was not so much feared by them. It being moved by some of the members of the Lower-house, that a discriminating mark might be set on such of them as had been for passing the Bill of Seclusion of his present Majesty when Duke of York, the Earle of Middleton, who sits in that house as representing the county [town] of [Winchelsea], signified, that he had his Majesties warrand to tell them he would not suffer any notice to be taken of that affair, for he had both forgiven and forgotten what injuries ware done him when Duke of York, and hoped they would doe nothing to make him remember them, which was very generous; but thesse votes are to be expunged out of the Journals of the house. On motioned, that ane Addresse should be made to his Majesty, for securing the Protestant religion, and to put the A&ts in execution against Popish dissenters and others: which being voted, it carried in the negative, that no such Addresse nor A& be made; but that they rely and acquiesce upon his Majesties royall word and solemne promise for ther religion, dearer to them then ther lives; wheiron they are more complaisant and tame then our Parliament is yet, for we have past ane A& for religion, such as it is.

The King has advanced on Collonell Talbot, (a papist, against whom the former Parliaments made many addresses to have him removed from his Majesty,) to be ane Irish Earle; but withall, he hes made the present Duke of Northfolk, tho a protestant, on of the Knights of the Garter.

It was observed, that the Marquis of Worcester, eldest sone of the Duke of Beaufort, was elected by 4 severall burrows: In the Upper-house on may vote by his proxie, so that a lord having 5 proxies from absent peers, he hath ther 5 votes besyde his oune; but in the Lower-house, it was thought ther could be no voting by proxies; but being chosen for mo places, he behooved to elect which of them he would represent, (which certainly he behoved to doe with us, tho we P. 90. allowed it to the Lords spirituall and temporall, by the 7th act in 1617; but rescinded by the 20 act in 1640,) and he could not vote for all thesse 4 places who had chosen him. I find 2 of our firname members of this Parliament, the on Sir John Lauder of Louthershall, for Westermuirland, the other Sir John Louthers of Whytehaven, for Cumberland.

Argile's invasion and insurrection having occasioned Scotland to be all in armes and a posture of defence, at the very tyme of the doune sitting of the English Parliament, with the severity used (supra pag. 84,) against Titus Oates, contributed very much to induce the English Parliament to a compliance with the King, which disappointed Argile's designe exceedingly;—yet it seems he promised himselfe [little] from the Commons house, as it was elected and constitute; for in his large Declaration he exclaims against them as packit, and caballed, and elected by fraud and injustice. Some expected that the English Parliament should have issued out a commission of array, that the King might raise ane army for securing England, whille ther neihbour's house is in a flame, *Tunc tua res agitur, paries cum proximus ardet*; for the King, by ther law, cannot presse all betuixt 60 and 16, to rise in defence of ther country, with 40 dayes provision, as he can doe in Scotland. (See Rushworth and other English wryters of thesse com-

missions of array.) If the King had ane army up, it's like he would not disband it so easily as his brother did his. In choosing ther members of the House of Commons, they are not tyed up (as we are) 'to elect only such as have ane interest in the shire or burrow which they are to represent; but with them, on who hes no land in the county, and is not yet so much as ane honorarie burgeesse, may be choisen to sit in Parliament for them, and commonly they employ lawyers; but a bill must be red three Parliament dayes ere it can passe, in which practise they have a great advantage of our præcipation in hurrying it instantly throw.

Some bills ware given in to the House of Commons, craving leive to cut of ane intayll of lands, and to sell for paying debts or to contract debts; some ware granted, others of thame refused. Licence is craved for the Earle of Offory, to give him a power to grant a joynture to his Lady. A bill moved, that seing St. Martin's in the feilds in London, is too spacious a parish, that the parishoners, upon ther oune charges, be allowed to erect a new parochiall church their, to be called St. James's. Item, another called St. Anne's Church. Item, ane act to reedifie St. Paull's steeple and spire. Ane act is past for the exportation of leather, and the shoemaker's petition against it was rejected. A bill sent doune from the House of Peers to the Commons, to reverse the forfaitor and attainder of the Vicount Stafford for the Popish plot, past in December 1680, supra; and to restore his airs. 2^{do}, That ane act be made, hindring minors to marry without ther parent's consent, and even restraining them for some competent space after ther father's death. 3^{tho}, Ane act allowing his Majestie to require carriages (Angaria) when he travells or marches throw the countrie, or his navies by sea, and his armies by land. A committee is named to inspect the expired laws, and to consider how far they deserve to be renewed. Sir John Talbot brings in a list of 21 of them. A motion is brought in, that beside the Court of aequity and conscience, for curbing the rigor of the common law, kept at Westminster, (which was so crouded as could not dispatch all),

3 other might be erected, viz. at Southwark, Saint Martin's, and the Liberties of the Tower. For encouradging the woollen manufacture, as they had formerly enacted, that all should be buried and wrapped in woollen; so now they ordaine, that all gentleweemen, shall, at least for fix months each year, wear clothes of woollen, and all coaches be lined theirwith, and that all Scots' pedlars, called Haukers, be discharged; our late prohibition of wearing wooll is on another politique, *de quo alibi*; and that all weemen below the degree of gentleweemen, be ordained to wear hats of woollen. (See more of the English Parliament's actings, infra page 103.)

In the end of May 1685, dyed the Marquis De Grana, Governor of the P. 91. Spanish Netherlands. They speak of the Duke D'Uzeda to succeid him; but the dormant commiffion being broke open, it was found that Dom Francisco D'Aguirto, the Marquis del Pico de Velasco, maistre-de-camp generall, governe for the interim, till the King of Spain thought upon another.

At this tyme, the senate and republick of Venice raised waft summes of money from sundry roturier and plebeian families, who ware become very rich, such as Seignieur Sandi, &c., and desired to be incorporat and immatriculat unto the number and rank of the noble Venetians and Senatorian order; which was granted some of them on the payment of one hundred thousand ducats for each person.

The Despote, (Prince,) of Moldavia, called the Hofpadar Duca, taken the last summer by the Poles, and who offered a waft summe, 100,000 crowns, for his ranfon, he dyes at this tyme at Leopold ther prisoner; so they lost the money.

Supra pag. 85 et seq., we have given some account of Argile's rebellion; to bring it now to its period we shall heir joyne it all together. Argile finding his party was loosing their courage, having left ther ships, (yet Julius Caesar, and W^m. of Normandie called the Conqueror, when they invaded England, they brunt ther ships to præclud and cut of all

hopes from ther men of flying that way,) and finding he did not performe his wain promifes to them, that all the country would rife with him as fo much combuftible tinder, and that he would get 20,000 men to give his 20,000 ftand of armes to, he now feids them with the milk of a letter he faves he had receaved from the Duke of Monmouth, that he was in armes in England, and, to infufe fpirits in them, he added, he was victorious; and this he infinuat in his letter, wherby he invites Maccallafter of Louip to come in to him. (See it in print.) Our King having complained to the Dutch Embaffador that Argile was furnifhed by ther connivence, the Hollanders, to pleafe him, offered to emit ane edit, difcharging the exportation of armes for 3 moneths, that no more affiftance might goe to Argile; and the Prince of Orange, on a letter from the King of Brittain his father in law, orders the 3 Scots regiments lying their to be immediatly shipped for Scotland, to aide us againft Argile; but when they ware at fea, Argile being taken, the P. Counfell employed on Captain Bird in his fhip, to goe and acquaint them that they might returne; and he did fo, finding them at St. Ebbe's head. The late King, in regard of the miftakes between him and his Parliaments, had left the brazen (wooden) walls of England, ther fhipping, in a very bad cafe.

It was thought very od, that in the Duke of Gordon's march to Innerairey, on night, his horfes and theffe of all the heritors with him, did take fuch a madneffe as fome to break ther necks, others to wound themselves, many ran 20 miles, fundrie ware never got again, and no caufe can be given for it.

The King's forces could not agree among themselves, for Captain J. McKeinzie, fone to the Bifhop of Orknay, having been defigned to be adjutant to the Proveft of Edinburgh, as Collonell of the militia regiment of that toun, Lieutenant Collonell Adam Rae taking this as a reflection on his military skill, offered to fupply the Proveft's part, which C. McKeinzie refented, and was made to train the Fyffe militia regiment;

and the 2 regiments meeting at Stirling, and striving who should march on the right hand, M^cKeinzie did batton Rae with a kaine, on the head of the 2 regiments, and Rae drawing, he retired into the mids of his oun picks; but Generall Dalzeill coming upon them, keepest the 2 regiments from ingadging, yet put C. M^cKeinzie so far in the wrong, that he affirmed, he deserved deprivation and a counsell of war.

The 2^d accident was more lamentabill, because more sanguinary. Sir Ewen Camron of Lochyell's men, throw mistake in not understanding the word, being Irisheas, at leift Hylandmen, fall upon a party of the Perth-shyre gentlemen, to the number of 12, commanded by John Grame, postmaster, and, under pretence of being Argyle's men, (whither the P. 92. mistake was innocent or wilful, to get their spoill,) they kill 5 of them, viz. Pearson of Kippencroffe, Paull Dog of Ballingrue, Linton of Pittendreich, Naper of Balquhapple, and . This was a very sad and unwarrantable mistake, and deserved a severe rebuke.

Then the news came, that, on the 17th of June 1685, the King's ships had ventured in upon Argile's ships, and taken them with all his canon, arms, and ammunition, and the fort of Ellangreig, with his standart, which was sent away immediately to the King at London, its motto was engraven on it, 'For God and Religion against Poperie, Tyranny, Arbitrary Governement, and Eraftianisme.' Argile finding he could keep his ships no longer, he resolved to make them uselesse, and doe all the mischeif imaginable with them; he considered how many howers it would take ere the King's ships, with the help of the tyde and wind, could reach his, accordingly, he plants a train of powder, and contrives it so, by the lenth of the match which was to burne ere it came to the train, that the match should last ay till the King's ships had buirded them, and then the train should fyre, and blow them all up. This was a mischievous project, and had near taken effect, but the few marinells he had left aboard tyed, discovered it; and it was so near, that the match was within

a few inches of the train and whole magazin of powder, when the Captain of the King's ship came aboard, who instantly extinguished that match; but, lest that should only be a blind to beguile them, and there might be other secret trains laid in the ship, he very prudently caused cover the whole powder with water, so it would not kindle. Then he seized on all the arms, and other provisions left. Being thus deprived of his ships, it was wondered how he subsisted so long; but this may be ascribed to the unaccessible starting holes this Hyland country affords, for Heylin, in his Cosmography, in the Description of Scotland, page , tells, from a Speech of King James the 6th to the Parliament of England in 1607, that our old Kings were beholden to the bogs, and other fastnesses of that country about Argyle and Dunstaffnage, whither they commonly fled, and drove all the cattell before them, so that the English, being destitute of all necessaries, were forced to give over the conquest. It is hoped this rebellion in both his kingdoms, in the beginning of his reign, will make the King more attentive and moderate in his government, and not to follow any counsel to alter our religion; for, if our phanatiques find themselves obliged in conscience to fight against Episcopacy, *multo magis* will they rise against the introduction of Popery. On the 19th of June, in the morning, we got the news at Edinburgh, that Argyle was apprehended running away from his men, and leaving them; not dying upon the hed as Catiline (*teste Sallustio*) did; as also, his printer is taken, who had printed his long and short declarations, and many of the common people. Some said that the King complained, that, if his statesmen had allowed and advised him to have made his Indemnity *in regiminis initio* larger, these poor people would not have so flocked in to him; and their dispersion will make a new fleece of guilt on the resettlers, whereby many innocent heritors shall again be brought under the statesmen's reverence. That morning the

P. 93. news of Argyle's taking came to Edinburgh, the Colledge of Justice, by order of the Privy Council, were to be modelled in a troop, but the news

made it neidleffe. The night before Argile's taking, and the disperſion of his forces, he had a Counſell of war, wher he propoſed, firſt, that, ſeeing the King's forces under the command of the Earle of Dumbarton was come within a mile of them, it was fitt immediatly to fall upon them, and fight them while they ware weary; this was rejected by Sir John Cochrane, and Sir Patrick Home of Polwart, (who had ane accumulation of reaſons againſt every thing that was propoſed, being never ſatiſfied with anything he met with.) Then Argile moved, that they ſhould march ſtraight forward to Glaſgow, and he doubted not but they might eaſily ſurprize it, ther being nothing to guard it but Winton's Militia regiment of Eaſt Louthian, and by it they would both get proviſions and breathing to look about them; in this he was alſo outvoted as a dangerous attempt. So ther nixt reſolve was, to croſſe over to the ſouth ſide of the river of Clyde to Renfrew, at that fuird called Kirkpatrick fuird; by which they had this advantage, that, the ſea being out, they paſſed over eaſily, whereas, in the morning, my Lord Dumbarton and his forces miſſing the rebels, and hearing they had croſſed the river, and attempting to doe the like, ther was no riding it, the ſea being in, ſo that he behooved ather to ſtay till the ebbe tyde, or goe to Glaſgow bridge, which laſt he choiſed. But this ſtratageme did caſt him half a day behind; however, Providence infatuated the rebels, ſo that this advantage of marching ſignified them nothing, for Sir John Cochrane, thinking himſelfe in his ounge ground, undertook, with the help of guides, to conduſt them ſafe in to Galloway, and ſo jank their ennemy; and if they fand ther reception ther not ſecure, then to march ſtraight to the Engliſh border. But, on the 18th of June, in the morning, being Thurſday, they fall into a bog, wher all their horſe and baggage is myred; and during the tyme they are diſimboguing themſelves, a detached party of dragouns, under the command of the Lord Roſſe and Captain Clelland, comes upon them. Before this tyme, Argile had left them, and deſired every on to ſhift for himſelfe. Sir John Cochrane for-

told him his destiny, that the country people would seize on him as a stragler, and he would be carried in Dundonald, his father's coach, to Edinburgh, which came to passe, only Sir John Cochrane did not foresee his own fatality. Sir John Cochrane seeing that party of the King's forces approaching, he took up his ground within a fauld dyke, so hy that nothing was seen but ther head pieces: though he, with some 300 men, were so advantagiously posted, yet Captain Clelland, with more zeall than discretion, charged them and was killed on the plate. A bullet grazed on my Lord Roffe's breift plate, (to which, nixt to God, he was beholden for his life,) and from that rebounded on his face, but did him litle or no hurt. Sir Adam Blair younger of Carberry was shot in the neck, and Sir William Wallace of Craigie, in the thigh, but none of them dangerously wounded; on Dundas, a lieutenant, had his arme shot away with a blunderbush. The service was so hot, and the ground so weill defended by Sir John Cochrane and the rebels, that the dragouns seeing Clelland, ther Captain, killed, would not come up, so the rebels escaped to Blackftoun, besyde Paisley, and in the night tyme, dissipated and escaped by the help
P. 94. of the darknesse; though the nixt day, many of the Hylanders and other common bodies were apprehended stealing away home.

As to the singular and providentiall way of Argile's taking, it was this: seeing ther affairs marred, and ther march retarded by falling in that boog, and having caused Seton fyre a heathery moor, to impede, by the mist, the ennemies pershuit of them; he withdraws from the body of his forces with 2 men, and thinking he would be lesse suspectt alone, he dismisses them, and tryfts them to meet him at night at such a place in Galloway. Thus, ryding all alone on a litle horse, he comes to crosse the water at Inshinnan, beside Paisley, ther 2 serving men to Sir John Shaw of Greinock, are ryding behind him, dryving ther master's baggage horse, and it being weary, they resolve to take that countryman's horse, (for he was disguised, and had a bonnet on,) from him, and set him to his foot:

they designed no more, so that if he had quite his horse, he had escaped that bout; but he not knowing their designe, did, on their crying and perswading him, turne about and fyre a pistoll or 2 at them, (for he had 3 on him,) and then took the water; but a webster dwelling ther, under Semple of Beltries, being awakned with the noice, came furth with a broad sword, and whille the other 2 ware capitulating with him, for to let him goe for some gold he offered them, the weaver being in drink, and so stoutter than the rest, swore he would not part with him, for he was on of Argile's men; wheron Argile attempts to fyre at him, but the morse being wet with the river water, it would not goe of: wheron the weaver had leifure to draw his sword, and it was so rusty it cracked in the coming out, and with it he gave Argile a great skelp over the head, and so stunn'd him that he fell in the water, and in the fall cryed, Ah! unfortunate Argile; wheron they lifted him up, and being recovered, carried him away prisoner to Sir John Shaw, their master, saying, that he lyed in calling himselfe Argile, for he was but on of his men. When Greinock saw him, he presently knew him, tho he had a long baird, for he had suffered it to grow ever since his escape, and had resolved never to take it of till he ware redressed; however, when prisoner, they caused him lett shave it. He offered immediatly his purse to Sir John Shaw, wherin was 130 guinees, according to the laws of war, and was conveyed in to Glasgow tolbuith. On which the Earle of Winton, governor of that place for the tyme, wrote in a letter to the Chancelor, telling him he had now the great traitor Argile in his custody; which was so acceptable news to our great men, that they immediately dispatched an account of it to London, by an expresse, with Winton's letter to the King, because it would contribute and influence much to discourage Monmouth, and any more from joyning with him. Argile was extreimly damped all that night after his taking; but getting leasure to recollect his thoughts, he resolved to make a vertue of necessity, and put the best face on his misfortune he could, so he did not ap-

pear so confus'd and embarras'd the next morning; but Dumbarton being come in to see him, and he taking out his snuff-box, and Dumbarton craving a sight of it, and looking to the sculptures and figures cut on it, he in rail-lerie (for he cannot want his sports) told him, he would not find any cruci-fixes nor crosses on it, jearing his religion. Immediately the Privy Counsell sends orders to bring him in with a safe guard to the Castle of Edinburgh.

Ther was also tane at the same tyme, on Collonell John Ayliff, who
P. 95. had associat himselfe with my Lord Argile, on this discontent, that his father being a wealthy man, worth 2000 lb a-year, he had mortgaged and lost it all in the King's father's service; and yet, on the late King's restitution, in 1660, notice was not taken of him, which provocked him to draw up with the republicans in England, and when the conspiracie broke furth in June 1683, he fled to Holland, and is named on of them in the King's printed proclamation then red in the churches; and being a gallant sojor, was induced by Argile to come over with him, who payed him so great respect that he was content to let him command above him, and to receive orders from him, and my Lord Dumbarton had a great deference to him. This man being rudely used, and beat by Grahame of Dougaldston's men, who took him, it provocked his spirits so that, not being searched, he in the night tyme endeavored to murder himselfe by ripping his belly with a pen-knife, and giving himselfe 2 wounds; next morning Dumbarton expostulating with him for attempting so unchristian ane action, he acknowledged it to be the most base and cowardly thing he had ever done in his life, but he was wearied of living; the 2 wounds being dressed ware judged not to be mortall. Our historie tells us, that it was suspected, that our Secretary Maitland or Leidington poisoned himselfe at Leith in 1570, to shun a violent death. And the Earle of Effex was reported, in 1683, to have cut his owne throat in the Tower of London on that same ground. Some had indiscreitly told Ayliff he would be cruallly tortured, which tempted him to offer to be *felo de se*. (See Ayliff execute, infra p. 117, at London.)

Collonell Richard Rumbold, another Englishman, was also taken at Lefmahaigo, by Hamilton of Raploch younger, and his militia men; (vide infra a reward for it, pag. 106.) He was flying into England, being conducted by on Turnbull, a man of Polwart's (for Polwart had secured himselfe by flight sooner then the rest had done.) He was bold, answerable to his name, and killed on and wounded 2 in the taking, and if on had not been some wiser than the rest by causing shoot his horse under him, he might have escaped them all; however he undervalued much our Scots souldiers as wanting both courage and skill. What had unfortunately ingadged him in this interprize was, that he had been from his infancy bred up in the republican and anti-monarchick principles; and he owned he had been fighting against these idols of Monarchy and Prælacy since he was 19 years of age, (for he was now past 63,) and was a Lieutenant in Oliver Cromwell's army, and at Dundy and sundry of the Scots battells; and by the discoverie of the English phanatique plot in 1683, it was proven and deponed against him, that this Rumbold had undertaken to kill the late King in Aprill 1683, as he should returne from Newmarket to London, at his owne house at the Ry in Hogfdone, in the county of Hartford, wher he had married a maultster's reliſt, and so was designed the maultster, and intended to have a cart overturned in that narrow place to facilitate ther affaffination; but God disappointed them by sending the accidentall fyre at Newmarket, which forced the King to return a week sooner to London then he designed, (see all this in the King's printed Declaration); but Rumbold absolutely denied any knowledge of that designed murder, tho on the breaking out of that plot he fled with others to Holland, and ther made acquaintance with Argile. It is certainly a reflection and leaves a mark of baseness on my Lord Argile, that he should have assumed such willians and miscreants into his company as this Rumbold and 2 of the murders of the late Archbishop of St. Andrews, viz. J. Balfour of Kinloch, alias Captain Burlie, and on Fleiming in King's-Kettle in Fyffe; and it

was also rumored that he had on Collonell Ludlo with him also, who, I find by Baker, in the death of King Charles the I., was a jurymen on the murder of that King, and on his sone's restitution did fly to Switzerland, P. 96. and live ther: all Argile's excuse was, that any who undertook such a desperat game as his, had not the choise of ther company; yet I find, 2 Chronicles, cap. 25 and [7th] v., King Amaziah reprooved by the prophet only for taking the ayde of the idolatrous Ifraelites; and tho ane army of saints cannot be got, yet Argile had looked more to his oune credit to have dismissed such infamous perfones as thesse.

Tho the King hes reason to thank God for this successe over his enemies, yet ther cannot be much joy after a victorie in a civill war: the Romans used scarce ovations, but no triumphs in such cases. Lucan tells us, *Bella geri placuit nullos habitura triumphos*. (See Valerius Maximus, lib. 2, cap. 8., Anto. Mathæus de Criminibus, p. 320 and 591; and the same Matthæus, p. 586, sayes, *Nihil vetat, but cum publica læticia privatus dolor ob vicem mortuorum in prælio civili fit mixtus*.)

Whatever was in Argile's first transgression in glossing the Test (which appeared slender) yet God's wonderfull judgements are visible, pleading a controverfie against him, and his family, for the cruall oppression he used not only to his father's, but even to his oune creditors. It was remembred, that he beat Mistris Brisbane done his stairs for craving hir annuelrents, tho he would have bestowed as much money on a staff or some like curiosity; 2^{do}. They alledge, he was the author of causing his father the Marquis goe to London, (for he hoped to procure him a pardon,) wher he was tane and sent home a prisoner, and headed. Polwart's differing with Argile in the counsell of war, minds me, that our story affords us many instances wher dissentions among our generall officers, (as at Bannockburne in Wallace's tyme, at Soloway Mosse in K. James the 5th reigne, &c.) our animosities and pride, hath oft fatally chattered our forces, and occasioned the losse of many battells.

Argile was brought from Glasgow to Edinburgh, prisoner, on the 20 of June, and he lingered so by the way that it was near ten a clock at night ere he arrived at the Watergate, so that his ignominious reception ther, and deduction up the street to the Castle was not so discernible. At first our rulers were so irritable, that they resolved to put all the marks of contumely on him they could; such as, a cart was provided at the Watergate, with a chair in it to bind him on, and so hurdle him up the way, the hangman leading him, or else to set him on a coal horse, allso ready ther; for it was reported, that in 1650, when the Marquis of Montrose was brought up prisoner from the Watergate in a cart, this Argile was feeding his eyes with the sight in the Lady Murrays balcony, in the Canongate, with his daughter, his lady, to whom he was new married, and that he was seen playing and smiling with her. Montrose had the King's commission for what he did, and therefore the injuries offered him were the greater; and our statesmen's anger being somewhat abated, they did not treat Argile so ignominiously as was first intended, which was to have carted him up the way, and laid him in the dungeon of the Castle with great heavy irons upon him; but seeing we condemn these rebellious times for their rigor, our great men (not knowing their own destinies), thought it no fit copy to imitate, so all that was done to him was, that he was met at the Watergate by Captain Grahame's company and the hangman, who tied his hands behind his back, and so the hangman going before him, he came up on his feet to the Castle, but it was casten to be so late that he was little seen. That day he was coming in, Sir Duncan Campbell of Auchinbreck, who had been in the Rebellion, and his son Mr. Charles Campbell, were observed to light in the Canongate by some P. 97. who knew them, but notwithstanding all the search was made for them, yet they escaped.

Now, to descant a little on this reverse of fortune. There was an English prophecy, called Catastrophe Mundi, (de quo supra, p. 55.)

wher great things were expounded of a litle Hylander, which the phanaticks applyed to Argile; but we see by this fatall end the vanity of such expositions. The dulnesse and fillinesse of the manner of his taking is very od; Providence confounding our common opinion of things: every on reputed Argile walian and witty, and Sir John Cochrane neither, and yet Argile sneaks away from the hazard, and Sir John fights stoutly like a man; only, the greatest coward when straitned (like a cat pershued in a cupboard) will fight desperately enough. For parallels of Argile's taking, I find Richard the 2^d of England returning from the wars of the Holy Land throw Auftria, in Germany taken by a peasant, and brought to the Emperor, then his enemy; (so Munster in Cosmographia, pag. .) Some alledges, Charles Duke of Burgundy at the battell of Nancie, and our King James the 4^t at Flodden, escaped. Abimeleck (cap. ix, of the Judges, v. 53,) is killed by a woman's throwing doune a piece of a milston on his head; and Pyrrhus King of Epirus (as Plutarch relates in his life) dyed by the same fate in the siege of Argos. But this was yet more surprizing and unprobable, that the generall of ane army should be apprehended by country people, he stragling and stealing away before the fight; and every on thought him so gallant and generous, that, rather then be so tane and brought to a scaffold, he would much more choise to fight and be killed on the field, as Rumbold answered, when he was bid render himselfe, "That he came there to fight for death, not for life." Argile had miserably deceived both himselfe and thosse he had persuaded to joyne with him; for, 1^o, The kingdome was not disposed to ryse so numerously as he expected; 2^{do}, Monmouth partly throw sicknesse, and partly by unreadinesse, (tho it was concerted and agreed betuen them in Holland, that he should follow him, so that both ther invasions should be at once,) was so long of landing in England. The phanaticall discontented people in Edinburgh, ware long ere they ware disabused or brought into the beleiff that it was Argile that was tane; and Mr. Spence having been

brought before the Privy Counsell, and intimate to him that Argile was tane, and he neided no more be disingenuous, now seing all would come furth, he laugh't at them, and with a very obstinate and unbelieving carriage said, " If ye have the principall what neids ye ask thesse quæstions at me." Ther was a searck made throw the trained bands of Edinburgh to see if any had gone furth and joyned with Argile. His attempt is now cryed out upon as treason, and deservedly, like Cataline's conspiracy; but if he had prospered (as Julius Cæsar did), then the vulgar opinion would have magnified the enterprize as heroick, for Seneca tells us, that *Fælix scelus virtus vocatur, et e contra infelix virtus scelus, nam totus mundus regitur opinionibus*. Yea, for on fact the judgement hes been contrare, *præitium ille sceleris crucem tulit at hic diadema*; but *careat successibus opto quisquis ab eventu facta notanda putet*. Many condemned Argile's conduct, 1^o, In touching at Orknay as he past by the North Iles, wheirby he ruined his businesse in allaruming all the country ere he came to his oun Hylands, so that Scotland, ere he landed, was in a military posture to receive him, tho he hoped this advertisement would have moved people to have come in and joyned with him; but he mistook our temper, for whatever seeret favorers and weilwishers he had, they durst not openly appear; 2^{do}, Others blamed him for not fighting Atholl before the Duke of Gordon and the other forces came up to him; and in not keiping himselfe in his fast ground, but coming to the champaigne country. Argile reflected on Athol as shunning to fight him; but wherever on is defeat ather every P. 98. accident is blamed, or else *quos perdere vult Jupiter hos dementat*. O the ludibrium of humane fortune! Argile in pomp and glory carried our imperiall croun before this King when Duke of York in his Parliament 1681; and now, in 4 years tyme, he is ignominiously led up that same very street by the hangman, *Quem dies videt veniens superbum, (inquit Seneca Poeta Tragicus in Thyeste) Hunc dies videt fugiens jacentem*, which makes Cicero de Oratore, lib. [3.], cry out, *O fallacem hominum spem, fragilemque*

fortunam, quae in ipso portu saepe obruitur; see it at large in my little 8vo. manuscript History, page 83. Let all men, but especially great ones, take example at this instability of fortune's wheel, let them learn to fear God, honor their King, walk uprightly, and use their power while they have it moderately; but no beacons will direct them to hold of themselves, which pride, ambition, malice, avarice, revenge, &c. drives them headlong upon. O but a serene conscience under suffering is the best support; *Hic murus ahaeneus esto, nil conscire sibi, nulla pallescere culpa*, says Horace. Let us hate and oppose the treason, but pity and pray for the guilty person their eternal state, whatever come of their body left as a sacrifice to justice. Montrose with a small handful of men gave this country work enough, and gained sundry battells; and it was once feared Argyle might have done the like. If God had a mind, he might have made his handful to scourge us like Gideon's 300 leaping men, and like the 300 Lacedemonians at the Thermopylae who stopped Zerxes' vast army; we are at a great height in sin and impiety; its like punishment is near, whoever shall be God's hand or instrument; for Horace, libro 3, ode 2, tells us, *Raro antecedentem scelestum Deseruit poena claudo*; tho it come *tardo*, yet it comes *certo pede*, unless we prevent it, with Niniveh, by a serious and timely repentance. This invasion of Argyle's exactly quadrates with what he proposes in his letters to Major Holmes, deciphered in the printed narrative and account of his plot, page ; where, calculating the opposition he would meet with, he calls our standing forces 3,200 men, but they are short of that by 500 men, our militia 22,000, and our heritors and their servants and attendants 50,000 men; but he lays not much stress of the war upon any of these last. It was a very crafty way of writing, and speaks Gray of Creichies skill in reading and deciphering them, which perfectly aggries with the depositions taken in England, and the tryalls of the Lord Russell, of Walcot, Hone, Rouse, and the King's Declaration of that plot in July 1683; so that Argyle has been hatching this rebellion

ever since his escape on the 23 of December 1682; but more closely since E. Shaftsbury fled also over to Holland in November 1682. He then beguiled Lundy, former governor of the Castle of Edinburgh, by Lady Sophia Lindfayes help, (who is now for his cause kept prisoner in Edinburgh Tolbuith); this will cause Major Whyte look better to his prisoner now. The wind Argile got from Holland (whence he set out on the 2^d of May last,) was so favorable that it brought him in a very few dayes to Orkney, and from that about to the North and West Isles, which made some think his witches had sold him a wind; but he has got no good wind to carry him away. By this insurrection the King may see his Protestant subjects owe him, and the Duke Gordon, Dumbarton, nor the other Papists had no hand in this victory, but the forces with my Lord Roffe, and they little other, their Providence has done all; so that no party can much brag of defeat, but only the wise and overruling hand of Heaven. P. 99.

I think the Webster who took him should be rewarded with a little heritage, (in such a place where Argile's death will not be regretted,) and his charter should bear the cause, and he should get a coat of arms as a gentleman, to encourage others hereafter. Argile regrets much the common people that were with him, for they are ready to take any bonds or tests, and it was not religion that moved them to rise, but rather affection to their late master and chief, or else they were compelled, and others trepanned with fair promises; and the Dutch seamen were not acquainted with his design till he had them at sea. In March and April this year, when Argile was preparing his rebellion, we had very boisterous winds, which verifies the French proverb, 'Grand vent, grand trahison.' The beginning of our King's reign is turbulent, like King Henry the 7th, (whose life is well written by Sir Francis Bacon, Lord Verulam,) he had a controverted title to the crown: this is but a gust *Nubecula est cito transitura*. Argile, in discourse, being challenged for calling this King a tyrant, he confessed, they behooved to load him in their printed declarations as an usurper, and only

call him Duke of York, (tho he knew him to be lawfull King,) to amuse, gull, incense, and draw in the people, (which method John a Leyden, and Knipperdoling confesse, in Sleidan's Commentaries, they followed,) because the vulgar love alwayes to be of a quærulous temper, against all government whatsoever, (ther being no perfection from errors attainable in any,) and ther most be blinds of the losse of liberty and religion used to deceive them. Yet we see God sometymes bring his works about, even of reformation, by none of the devoteest or best instruments. God knows what brave protectors of our religion his Hylanders would have been, who nather regard nor know any religion at all. Some victories have been in the report anticipate, and heard by the information of some spirits before the news of it could come, as Livy and other historians tell us.

Mr. Rumbold was brought in to Edinburgh on the 22 June, (that same day of the moneth on which Bothwellbridge was foughten,) and, at the Watergate, was put upon a sled or hurdle, with a rope about his neck, and so drawn up to the Castle; he looked alwayes for the gibbet, thinking he was going instantly to be hanged; but he, on the 26 of June, being Friday, got a fair tryall and was execute that day; (see in my folio law MS. at that day, page .) Being told, in the Court, that Monmouth, in England, was assuming the title of King, Rumbold sayd, James Stewart had indeid advised him to assume that title, but that his best men ware republicans, who would never fight for him in that quarrell; and that James Stewart had cast the horoscope of Argile's affair, (which he said he might easily foresee, without ather the spirit of prophecy or divination,) viz.: that he would ruin all by lingring in the Isles, and not marching into the Inne country and landing in Galloway, and he beleived that might be the reason why James S. would not come alongs. As to the stock with which Argile furnished his ships and armes, Rumbold said, he thought it did not exceed 12,000 lb. sterling: how he got it, some said, ane English widow in Amsterdam, called Mistris Smith, advanced him considerably; others say,

that Polwart, Torwoodly, Mr. Gilbert Elliot, &c., went to Geneva, and to the Protestant churches of Germany, begging supply to the poor afflicted Protestants of Brittain, and thus raised a great summe; but I think it was not understood by the givers that it was to be employed in a rebellion or invasion. When Argile fled out of the castle of Edinburgh, on the 23^d of December 1681, sentence was pronounced against him the next day in absence, and the manner of his execution was referred to his late Majesty. Upon his being taken, our Secret Committee does instantly write to this P. 100. King to know his mind anent the prisoner; he, by a letter, ordains him to be execute within 3 dayes after ther receipt of his, but leives the manner to themselves: wheiron they deliberat long, and at last the Privy Counsell (who are recovering somewhat of ther power now, the Secret Committee beginning to divide in factions, betuen the Treasurer and the Chancellor's mistakes, amongst themselves,) gives instructions to the Lords of Justiciary, and they call Argile before them on the 29 of June, and intimates his old sentence to him, and ordains him to be headed the next day, and his head to be set upon the tolbuith, fixed on a hy pole. It was long debated at Privy Counsell, whither he should be hanged or headed, and the last carried it, (my Lord Kinnaird craving his vote for hanging him, might be marked,) the nobility stood upon ther priviledge of peerage, not loving to lay doune a præparative against themselves, for great men are most subject to thesse blasts and reverses of fortune; *Summos feriunt fulmina montes*: yet I find in King James the 5th tyme, in 1587, both my Lord Glammes and the Master of Forbes hanged, if Sir G. McKeinzie hath observed aright in his Criminalls, (Title of treason, page ,) for Drummond in his story of that King's life differs: the Earle of Atholl and on Grame were cruallly tortured for murdering King James the 1; (see it in Buchanan, Drummond, &c.) Regent Morton in 1581, was only headed, (as Spotswood in his Church Hiftory, page , tells,) but such was the speit that his body lay some howers on the stage, none daring

ounes it till piners carried it off. Our old Scots way of quartering, was only the cutting of the legs and the armes, (as was done with the great Montrose,) but did not divide the body, which severe practise we have only of late, since Rathillet's case, borrowed from the customs of England, whom we do not imitate in many better things. Some urged, that he was not to be looked on as a nobleman now, after sentence of forfaitor; yet Tiraquellus, cap. 20, de Nobilitate, and others, think there remains so much of the *jus sanguinis*, and the character *indelibilis*, (so to speak,) as gets them that privilege of coming to the place of execution with their hat on, and of being *Decapitati et non in furca seu patibulo per collum suspensi*. They say Argyle told the King's Advocate, he deserved rather to be in his circumstances; for by serving the statemen to serve up his Explication of the Test to be treason, he had subverted and wrested the laws of the land. Argyle did not deny but the present King's title to the crown was better than Monmouth's, (he was heard say, he was not so mean as to draw a sword for his title; and yet, if they were fighting for a republick, they were digging a grave to their own nobility, for levellers to triumph over them, but men in passionate revenge do nothing with mediocrity;) onlie to vindicate, at least palliate, his own resistance, he contended he had usurped and intruded, because being a Papist he had not satisfied nor obeyed the *leges* nor *conditiones regnandi*, by taking the Coronation oath before his entry, conforme to the 8th Act of Parliament in 1567, and so he was not bound to obey him yet as his Sovereign; but that Coronation oath is no suspensive condition nor limitation of our allegiance, tho Argyle would have had the world believing it suspended him from the exercise of that power till he had secured his subjects by taking that oath. Argyle (for so I have and may call him, tho some named him only Mr. Campbell, but

P. 101. the great men called him My Lord, before the intimating of his sentence to him, expressed himselfe thus, that it was little he had to say, and he thought it not materiall whither he spoke it before or after the

sentence ; (*Etiam post sententiam reus innocentiam suam probare protest modo statim sine dilatione id faciat ita.* Ant. Matthaeus de Criminibus, pag. 708, 746, 767, et seq. & 806 ;) that he had made his escape without violence or breaking of prison ; that he was condemned the next day without citation, or hearing ; that he was informed the Parliament without citation, had also forfaulted him of new ; he knew that in *criminalibus numquam concluditur contra reum*, (this maxime holds only *ante sententiam numquam concluditur*), yet he would give them no farther trouble, but that he was in God's hands and ther Lordships. Some thought this doome of forfaultor scarce weill founded, being only on his Explication of the Test, wheiras he had committed crimes 1000 tymes more important since ; but to give him a new indytment on thesse was to louse the first sentence, to reflect on the Judges who had condemned him, and the Parliament who had ratified it, and his new treasons ware open, awowed, and notorious, tho his sentence on record bears nothing of it. The Roman law prohibits *luctum publicum in morte patriæ proditorum*.

And thus was Argile headed on the 30 of June 1685, as his father had been in 1661. He had all the civility imaginable put upon him ; he was allowed 8 freinds to be in mourning with him on the scaffold, viz. the Lord Maitland, his sone in law, (to whom he gave a paper of advices to give his daughter,) Montgomery of Skelmuirly, Campbells of Skipnag, Dunstafnage, Carrick, Ellangreig, &c. ; he came in coach to the Toune Counsell, and from that on foot to the scaffold with his hat on, betuixt Mr. Annand, Dean of Edinburgh, on his right hand, (to whom he gave his paper on the scaffold,) and Mr. Laurence Charteris, late Professor of Divinity in the College of Edinburgh, whom he particularly called for. He was somewhat appaied at the sight of the Maiden, (present death will danton the most resolute courage,) therfor he caused bind the napkin upon his face ere he approached, and then was led to it. His body, after the separation of his head, by the great commotion and agita-

tion of the animall and vitall spirits, started upright to his feet till it was held doune, and the blood from the jugular weins of the neck sprung most briskly like a cascade or jette d'eau. Thus fell that tall and mighty cedar in our Lebanon, the last of ane ancient and honorable family, who rose to ther greatnesse in King Robert the Bruce's tyme, by ther constant adhaerance to the king, being then Knights of Lochow, with his other 3 companions, the Seton, Lylle, and the Lauder; and continued doing good services to ther king and country till this man's father proved disloyall; and ever since, state policy required the humbling of it, being turned too formidable in the Hylands, with ther waft jurisdictions and regalities. As a great man fell in Israel, so he had been all his life the ludibrium and tennis ball of fortune; his first service was for the late King (who ever retained some kindnesse for him) in the hills in 1651, and, after being tane prisoner in 1653, he remembred when he was brought to the castle of Edinburgh, and turned up his bible, the 14th chapter of Job fell up to him 3 severall times, which he reckoned providential becaufe of the 1 v. "Man that is born of a woman is of few days and full of trouble:" If ever this text was verified in any, it hes been (said he) fulfilled in me; for, after his sufferings by the Ufurper, his father was scarce forfault and execute, when he was pannelled and forfault himselfe; and, having dispelled that cloud, then he fell into ane embarrasse with the Macleans for the isle of Mule; then the Test proved to him ane abyffe of troubles: However, let us justify and vindicat the Divine-justice in annihilating this family (which, in the long course it hes run, could not but contract much P. 102. filth) for ther oppreffions by which they studied to inlarge and aggrandize ther borders, and now God hath said, what you have unjustly scraped together, strangers shall enjoy it. What Argile spoke was most in the Toune Counsell house, and litle in the scaffold: in his discourse he had few reflections, he did not pray for the King, but insisted much against Poperie, which the atheisme and profanity of the age would insensibly in-

troduce; he hoped no good Protestant doubted but the Pope was Antichrist (yet many Protestants doe now laugh at this); that he thought litle once a day to be brought to a scaffold; that great men would doe weill to take example to rule in the fear of God, for they knew not but they might come to as publick a death as he; this was a warning to our present governors; he shunned to speak of his last invasion, (for certainly he knew it was against the laws of the land,) but dwelt much on the smallnes of that first cryme for which he was forfault, in the explaining the Test, and that he had peace in his owne breift, nather checking him, nor attesting any guilt on that head; and, tho he saw a door for deliverance, he was so willing to dy he would not accept of it:—see his speach. He pled much for favor to his children, but particularly for John, who, he said, only followed him without armes, not being able to fight throw a debility in his hands; he also recommended the poor peeple had been with him as deserving mercy and compassion, for the most part of them ware forced.

The Argile was very witty in knacks, yet it was observed, he hes never been very solid sen his trepaning of his scull in 1653; he was so conceitty he had neir 20 severall pockets, some of them very secret, in his coat and breeches, and brought a printing presse with him, and artificiall bullets and pistolls. Tho Argile judged he got hard measure in his first forfaultor, yet he had done more like a Christian and a good countryman to have imitat the heathen Rutilius, (in Seneca, *libro sexto de Beneficiis*, cap. 37,) who, being unjustly proscribed and banished, it was proposed he would be restored again by the civill wars, God forbid, (sayes he) I had rather my country ware still ashamed of ther injustice in forfaulting me, then that they should have cause to mourne by my bringing alongs with me a publick calamitie on them, in my violent returning, by the remedy of armes and a civill war: Christians should blush to be so out done by heathens in ther moralls; we most not doe evill that good may come of it: we may say, Argile hes followed Juvenal's counsell, *Aude aliquid*

brevibus Gyaris, et carcere dignum, si vis esse aliquis; for in magnis voluisse sat est, et magnis excidit ausis. Argile had a response that he should live to 80, which might be true, excepting a violent death; some *malunt Rempublicam quam Romam suam turbari*, as Seneca speaks; and *stulte putant everfa Republica piscinas suas salvas fore*, ex Cicerone. See this alibi, in my 8^{vo} MS. A. 5, p. 89.

About the tyme of Argile's execution, on of his grandchildren, a son of Lorne's, threw himselfe, being 6 or 7 years old, over a window in Leidington, 3 stories hy, and was not the worfe; from which miracle this inference was made, that the said family and estate would yet again recover, and overcome this four blast.

Some look on this invasion as a small matter; but, beside the expence and trouble it hes put the country to, if we ponder the fatall consequences of such commotions, we'l change our opinions: for, when the ramparts of government are once broke doune, and the deluge follows, men have no assurance that the water will take a flowing towards their meadows to fructify them; no, no, just in the contrare, we have seen them who began the rebellion very oft ruined or laid asyde as unfit cards by another prevailling faction getting into the saddle; thus, the Independents and Sectareis in England used the Presbyterians in King Charles the 1st wars, which the Presbyterians began, hoping to rule all: *Sic vos non vobis fertis aratra boves, &c.* Fools begin the stir, and knaves, not seen at first, doe commonly reap the sweat of such disturbances, and mock at thesse who only hunted the game, but are so far from getting any share, that they become a prey themselves, and are accabled and ruined under the load of that government they had undermined, like the usuall fate of thosse who pull doune a wall, or kill an elephant, *mole obtruitur*. If the beginners of rebellions considered this in cool blood, it wold allay much of ther indiscreit heat.

Its reported, when Argile's corps ware carrieng away of the scaffold,

a woman of the Popish religion followed the bearers with railing, and wished shee could wash hir hands in his heart's blood; some other weemen hearing this, it did so far provock ther choler, that they seized on hir, and dragged hir to a cloffe foot neir the North Loch fyde, and ther beat hir soundly, and tore hir cloaths, and robbed hir of hir crucifix and beids. They say, Collonell Wytfuird and other papists spoke very broad and open things as to ther inclination to avenge themselves on ther enemies.

On the 1 of Jully, we had account of Stewart younger of Coltnesses taking, (for he is in the Proclamation, putting a price on the rebells heads) but particularly of the apprehending Sir John Cochrane, and his 2^d son Waterfyde, and on Dumbar, surgeon with him. He had fled into ane P. 103. old tower house of his father's in Renfrew, called Cochrane, wher his unckle Gawin lived, his wife being sister to Captain Clelland, who was killed by Sir John Cochrane and his party; shee receives him courteously, (in this like Jael to Sisera, Judges [ch. 4. v. 18]) but hir husband not being at home, (so this will liberate him from the cryme of reset, tho it creat a bad understanding between the man and his wife,) shee sent privy advertisement to some dragouns neir hand, who came and seized him. Quæritur, Whither the dragouns or shee deserve the 1800 merks reward for apprehending him? it seems to be due to the discoverer. Supra we have seen Abimelech and Pyrrhus dy by the hands of weemen, who are superlative vindictive; but that French gentleman was more generous, who sheltred a neihbour who had killed his oun nephew (which he knew not then, but the officers coming to search for him and finding his guilt,) he came to him and privily dismissed him, seing he had given him his word of honor, he would not violat the *jura hospitalitatis* by delivering him up to justice, but thought he was not bound to keep him any longer, but bade him shift for himselfe.

Supra page 88, et seq. we have some passages and occurrents of the

English Parliament ;—to prosecute some mo of the occurrences happened then, and ther a&ts and bills : Ther was a motion in the House of Commons for erecting and keiping a register in every markat toune for discovering titles and incumbrances upon lands ; the want of this makes ther rights very infecure, and in 1670, and at other tymes, it hes been attempted to introduce the pra&ise of our registers among them ; but it was alwayes opposed by the lawyers as spoiling part of ther trade, and out of envy to us, that they sorne to borrow our customes ; (see mention of a pamphlet against it called Registring Reformation, in ane answer to it by Sir G. Mackeinzie in the end of his Pleadings, in 4to.) A bill for keiping a register of all births, burialls, marriages, &c. Upon the Duke of Monmouth's landing at Lynne and invading England, the Parliament brought in fundry a&ts against him, as a bill of attaindor of him as guilty of hy treason ; item, a bill declaring his illegittimateneffe, and that it should be treason in any to give him the style or title of King, or to reset or spread his traiterous Declaration ; with ane addresse to his Majesty, that he might not venture his oun royall person, but might offer £5000 sterl. of reward to any who should bring in the said Duke of Monmouth dead or alive ; (of this see afterwards page 105.) Beside the former subsidy, they, in respect of the war, vote the King a farder supply beside what is, supra page 89, and a motion was made, that it should be a year and a halfes full rent of all the houses in London built since 1661, ther being a prohibition then in respect the city swelled too big ; but the citizens exclaiming, they ware forced to alter the funds out of which it should be raised, and to lay it on brandee, callicoes, coco nuts, wrought and unwrought filks, &c. ; and in regard this imposition was for 5 years till 1690, and the King's affairs required a present stock, they passed ane a&t to raise and advance 400,000 lb. sterl. theirol, upon credit by anticipation presently. Thir cesses the English Parliament have granted the King are not considerable, and are laid on the merchand, which makes ane outcry ;

but they grant the King no land cefse fince May 1678, at which time alfo they gave him pole money *per capita* ; the chimley money is annexed to the croun in the laft King's tyme, in compenfation of the waird holdings and liveries, which he then quate to the peeple. Item, a bill to incorporate a part of the poft office to the croun for augmenting its revenue. P. 104. Item, a bill for refchinding a claufe in ane a& anno 29 and 30 of the laft King, and now allowing the importation of French commodities in regard theffe goods ware ftollen in uncustomed, and fo none but the King was prejudged. Ane a& for releiff of poor debtors and prifoners. A bill brought in to naturalize all the French Proteftants already come over, or who fhall come betuixt and a day to be defined, providing they tranflate the Englifh Liturgie into French, and ufe it in ther congregations, and acknowledge the gouvernement in Church and State ;—this is a politique a& in the King, and commendable for him to affent theirt. The common counfell of London caufe raze out and deface the infcription Sir Patience Waird had caufed put upon the London Monument, the tyme of his majorality, anent the cities being brunt in 1666 by the Papifts, and ther murdering of Sir Edmondbury Godfrey ; the Englifh Parliament ware difpleafed at this ; as alfo at a motion made, that French forces might be invited over to affift the King againft Monmouth. A bill in favors of the trade of filk weavers. Ane a& for fetling and fecuring the Quean in hir doury or joynture. Ane a& to enable the King to fet a leife of his croun lands in his Dutchy of Cornwall. A bill againft importing gun powder and fmall arms, for incouradging artificers at home. A bill againft fimony. Another for repreffing perjurie, in regard they found the punifhment of it too fmall in Titus Oats' cafe. And Thomas Dangerfeild alias Wilhonby, being arraigned at the King Bench bar for publishing a fcandalous and infamous narrative reflecting on the King, then Duke of York, as acceffory to the Popifh Plot, (fee a note of it alibi,) and being convi&, he is fyned in 500 lb. fterl., fet on the pillory, and fcourged

first from Auldgate to Newgate, and the next day from that to Tyburne ; (vide supra pag. 84 et seq.) Item, Richard Baxter, the famous non-conformist minister, is convicted for writing and printing some seditious annotations on the New Testament, and for it is fined in 500 merks sterl., and imprisoned till he pay it, and find bail for his good behaviour for 7 years coming, for he is very old. Some of the House of Commons made likewise a proposall that some late printed books should be censured, such as the works of on Petit a lawyer, of on Thomas Hunts, also an Innes-of-court man, for London's charter, and against this King when Duke, Mr. Gilb. Burnet's History of the English Reformation, &c.:—Some thought their propositions and proceedings odd. An act that seamen may be hereafter pressed to serve in the King's ships, which was not lawful before. Leave is given to bring in a bill for the building of ships ; another for improvement of tillage and breeding of cattell. The King in his robes and crown in the House of Peers having touched the supplies, and sundry of their acts that were ready, he adjourned the Parliament, on the 1 of July, to the 4th of August, in respect of the present expedition against Monmouth.

Before I come to Monmouth's invasion, I'll step a little over seas, where the Greek Mainots revolt from the Turk, who suspecting an religious
 P. 105. Abbot in the Gulf of Trevesa, as accessory thereto, they impale him alive by drying a stake thorow his fundament to his mouth. The Christians, under the command of Collonell Heullar, besiege and straiten the Turks in the town of Neuhauffell, which they defend with courage enough. From Madrid, in June, we hear that the King of Spain commanded the Duke de Medina Cæli, to retire from Court to his campaign house, 18 miles distant, called Collolludo ; he was first gentleman of his chamber, and master of his horses ; the cause of his disgrace was not then known, but one of the Queen's waiting maids discovers a conspiracy against the King. The Duke de Willa Hermosa declines to accept the government of the Spanish Netherlands. See infra page 113.

Supra, page 91 et seq., we have seen the fatal end of Argile's bold attempt: in prosecution of the same designe, did the Duke of Monmouth, in 3 ships, land on the 10th of June 1685, with 150 choise men at Lyme, in Dorsetshire, near the Ile of Wight, wher he knew the peeple were most inclined to him, and much disaffected to the present King. Immediately the King emits a proclamation against him, the Lord Gray, and his other affociats, declaring them traitors, condemning ther villanous proclamation, and offering the summe of 5000 lb. sterling, to any who shall bring in Monmouth dead or alive; and the Parliament passe a bill of attainder against Monmouth, and for preservation of his Majesties person and government. See more of the Parliament's actings in this, supra page 103, and that they will stand by the King with ther lives and fortunes. Major Wildman, Captain Mathews, Charleton Speak, John Trenchard, Collonell Danvers, and others, absconding themselves, and it being suspected they had run in to Monmouth, ther was warrands issued out to arreist them; but the birds ware flown. From Lyme the Duke of Monmouth marched to Taunton, (wher the famous Mr. Joseph Allane had been minifter,) both which tounes boor long seidges in King Charles the 1st tyme, in behalfe of the Parliament, and the King was forced to raise and leave the last, viz.:—Taunton in Somersetshire, which, in commemoration of that long seige, wheirin they ware redacted to eat horses' flesh, they keiped ane anniversary thanksgiving for ther deliverance, even after the late King's restitution, which he studied to abolish as a most absurd reflection, and yet was not able wholly to accomplish it. Thir western shires of Wales, &c., are very anti-monarchicall, and much enamoured to be at a Commonwealth and Democracy, which made Rumbold, (supra page 99,) say, that Monmouth was not weill advised to assume the title of King, seing his best men ware Republicans.

The King was somewhat straitned with this invasion, for he had not many standing forces, and he durst not empty nor evacuat his garrisons,

nor the militia of London, nor weill leive the city, leift the il-affected ther should rife for Monmouth. Whowever, his fate begins as Argile's, for as his ships ware tane at Ellangreig, fo are some of Monmouth's tane at Lyme, and 5000 ftand of armes, in regard he wanted carriages to transport them.

The Duke of Albemarle meits a party of the rebells neir Taunton, and defaits them, killing on Buffat, the fon of ane old rebell in that toun; on Lieutenant Monaux, on the King's party, is alfo killed in that rencounter. Monmouth cuts and breaks doune the bridge at Bridgewater, which cafts the King's army a confiderable march about; and then he goes to Philips Norton and Frome, defending himfelfe with the lanes and thick
P. 106. hedges their: notwithstanding wherof, a party of the rebells is attacked behind theffe hedges, by Lowis de Duraz, a Frenchman, created the Earle of Feverfham, and the Earle of Pembrock, and the Lord Churchhill, and 200 of them defait, and ther leader Captain Mathews, fon-in-law to the late traitor Sir Thomas Armftrong, is killed; and on the King's fyde, the Lord Newport's fone is shot in the belly. Monmouth was judged to have about 7000 of the ill-armed rabble with him. He was faluted as King by the rabble, and fo prayed for by ther minifters, and he touched fuch as had the King's evill as King. William Difnie efquire, and printer of Monmouth's traiterous Declaration, being taken, was arraigned and convi&t theirot, and is hanged, drawen, and quartered at London. The news of Argile's totall rout did weaken Monmouth's party exceid-ingly. He affumed the title of King, by Fergusfon's advice, thinking the nobility and gentrie would then come in to him; and in that fyle wrot to the Duke of Albemarle, commanding him on his allegiance to defert the fervice of that ufurper, who had poisoned his brother, and come in to him, the late King having been lawfully married to his mother. He alfo created the Lord Gray (as was reported) Duke of Monmouth, and a knight of the Garter, (becaufe our King had lately made the Earles of Peterborough and Rochefter, knights of that order,)

thinking he had no more use now for that title of Monmouth, having assumed a hyer; he also made our Mr. Rot. Fergusson, his Secretary of State, and on Mr. Richard Goodenough, his Hy Treasurer; and on a Sunday he attempted (like Oliver Cromwell's trick) formally to preach to his army. The King beside his suadadoes, called over from Holland his 3 Scots regiments, and his 3 English ones; and to encourage his souldiers, he declares, he will give the 5 militia men of Arran's regiment, in Cliddifdale, who (supra page 95,) took Rumbold prisoner, the 500 lb. sterling he had promised, by his English declaration, for any to take him, and if they were dead, their wives, children, or nearest of kin, should get it equally amongs them. Some wondred that the King of France did not concerne himselfe in this plea; for no doubt he is content to see England humbled and debilitate by intestine commotions; but as for Monmouth's designe, that King loves not to conquer crowns for others. The King emitted a proclamation offering a pardon to all the rebells with Monmouth, under the degree of officers, that should lay doune their armes immediatly and come in; which had such good effect, that some 100^a left Monmouth; who commanded all the carpenters, maiffons, bricklayers, &c. to attend, which made us beleive he intended to fortify himselfe in a camp. Our King having sent for his 3 Scots regiments, and his 3 English ones, that were in the Dutch service, the 3 Scots regiments are immediatly shipped, and the King sees them rendezvous at Blackheath, to his great content. The Prince of Orange sent and offered his personal service to his father-in-law, and ordered ten ships to scour the Maife and the Uly, that no more ships might come furth to Monmouth's ayde; and not knowing the printer was taken, put the price of 500 lb. upon his head, and the States were so civill as to offer the King the 6000 men they are obliged to send him when he needs them. The King's forces lying in a plain near to Bridgewater, the Duke of Monmouth, with great secrecy, marched on the head of his army, being then 6000 foot, and the Lord Gray, on the head of 1200

horse, and thought to have surprized the King's army on Moonday morning, being the 6th of July; but they stood so obstinately to it, that, for all their silent march, they found them on their guard, ready to receive their shot; so that at last Monmouth's men were forced to give back and yield, P. 107. and, being once disordered, they could never be got to rally again, notwithstanding all Monmouth's courage, and pains he took to do it; whereupon, his army being totally routed and broke, he was forced to flee off with some 50 horse, and succumb to his hard fortune. Those who bore the brunt of this battle, and had the honor of the victory, was my Lord Dumbarton's Scots regiment, to the credit of our nation (tho Dumbarton himselfe was in Scotland.) Captain Robert Hacket took Monmouth's own standard or colours, with this motto in gold letters on it, "Fear none but God." Captain Moncreiff, with 5 lieutenants, and 4 of their ensignes, were wounded, and some of them mortally, and about 30 soldiers killed; so that the fate of this day the English and the King owe it to the Scots.

On the 7th of July, the day after the battle, my Lord Lumley's men found the Lord Gray in a disguise at Ringwood in Dorsetshire, and asking at him for Monmouth, and he answering timorously, they apprehended him, and brought him to Lumley, who knew him; and, being enquired anent Monmouth, he said, he fled that same way; whereon they got on of the forester of the woods' flough or blood hounds (who follow thieves, but their race is much worn out in our Scots borders,) who smelled Monmouth out in a dry ditch, where he had crept in all covered over with bryars and bushes, brails or ferns, and was so fast asleep (having never been in bed nor his cloaths of since he landed at Lyme 4 weeks before), that when they pulled him up he could not stand nor speak sensibly; he was so drunk with sleep that he nather knew where he was, nor that he was in his enemies hands: he was in a gray freize coat, and a leather girdle about him; he had his George, the badge of the Garter in his pocket, with 200 guinees.

Some of the principall rebells fled from Barstable to Elford, and leiving ther horfes ther, about 60 of them forced a boat and thought to escape, but ware tuse driven back, once by the wind and the second time by on of the King's wethells; wheiron they took shelter in some of the cliffs and rocks in that coast, wher they most ather be taken, or leap into the sea and droun, or starve and dy; amongs whom are said to be Mr. Rot. Fergusson, our countryman, with Melthorp, and Richard Goodeneugh, once under sheriff of Middlesex. Of Monmouth's party ther ware about 1500 killed, and 300 taken prisoners, wheirol fundry ware immediatly hanged on the place at Taunton and elsewheir.

On Moonday the 13 of Jully, the Duke of Monmouth, the Lord Gray, and on Brandenburgh a German, ware brought prisoners to London. Monmouth wrote most submisse letters to the King, Quean, Quean Dowager, and Lord Treasurer, and desired leive to see the King's face; which was allowed him, the King conferring with him for halfe ane hower in prefence of Midleton and Sunderland, his two Secretaries of State. But as soon as it made tyde they ware put in on of the King's barges, manned and lined with fuziers, and carried thorou London bridge away to the Tower, in at Traitors' gate, (which is ominous to all who enter that way,) wheir his lady and children ware allowed acceffe to him. The nixt day, being the 14 of Jully, the 2 shireffs of London came to him from the King, and acquainted him to prepare for death against the morrow, seing he stood condemned guilty of treason by A& of Parliament; and accordingly, nixt morning at 9 a cloak, he was brought out to a scaffold erected on Tower-hill, strongly guarded with foot and horse souldiers, accompanied with the Bishop of Bath and Wells, and the Bishop of Elie: he had on a dark gray coat lyned with black; he had litle discourse, but studied a while on the block and prayed, and gave some guinees to the executioner, and desired he might put him to as litle P. 108. payne as could be; yet he mangled him extreimly with 5 stroaks ere he

got of his head: (*Est error vulgaris quod liberetur capus cervis uno ictu resecta non est*; A. Mathæus de Criminibus, p. 907.) Some thought this torture (the first hack made him lift up his face and look to the bourreau) nather injoynd nor designed; but that the executioner's eyes and courage failled him, (confidering the person he was killing,) that the ax was ready to drop out of his hand, and he offered to give it over had not the Shireffs of London threatned him to perfyte it. And so ended this stout and unfortunate Prince, the nobility of whose birth procured him the favor to be headed, and not to be demamed, hanged, drawen and quartered, as other traitors use to be. It was reported, that Doctor Turner, bischop of Elie, brought a letter from Monmouth to the King, begging his pardon for taking his title to the croun of England, &c. on him, and that he had not done it had he not been forced to it by some of his party, (tho all the republican faction would be against it,) and that he had no pretence to it, being oft told by the late King, his father, (who would have been very loath to have execute a capitall sentence on him, no more than David intended that his rebellious sone Absolon should have been killed,) that he was not married to his mother; and begged his Majesty would be kind to his children, for the King had imprisoned both them and their mother the Dutcheffe, on the account it was reported shee was with child, and so had conversed with him, (how far this correspondence of a wife with hir husband is criminall may be doubted); but Monmouth's claiming the croun, tho' on a title never so slender, will intayll a jealousy against all his children, who may set up the same pretence when giddy rebellion gets an opportunity, so that the King will never think himselfe secure without detaining them in perpetuall imprisonment; wheiras if he had not put in his clame, it's like the King would have restored his posterity. Among other prifoners tane with Monmouth, ther was his servant Mr. Williams, Collonell Holmes, and Perrot his major, and the constable of Crookhorne, and Mr. Goodeneugh.

The King, by his proclamation on the 11^t of July 1685, immediatly ordered a thanksgiving to be keiped in all the churches of England on the 26^t of July for his deliverance. We prevented them, and keiped our's, on the south side of Forth, on the 23^d of July. By this succeffe, (tho more redevable to the divine providence then any humane aid,) some termed the king James the Hardy, as they denominated his brother Charles the Clement or Mercifull. Some talked of projects to spare Monmouth's life, and to keip him in perpetuall restraint; but confidering the King's humour, and his rivalling the croun, that could never be expected. His scaffold stood in the same place wher the popish Lord Stafford's, and Collonell Sidneys had formerly been erected. Thus ended this storme, which I find fortold by Mr. Spence, in his deposition tane in August 1684, (as it is recorded in our printed account of our plot, page 33,) that he thought on the late King Charles's death troubles would probably arise because of the Duke's religion, which was a sort of prophecie; and as the throwing Sheba's head over the wall of Abell appeased Joab, so Monmouth's head fell a sacrifice to his unckle. All wished this victory might make the King thankfull and humble, and tender of his people in ther religion especially, for some feared it would puff up P. 109. the Papists exceedingly, and that it might occasion many to apostatize and fall away from the Protestant faith; confidering the attachement and inclination many of us have to the Reformed religion, is only the product of education, not conviction, and only because it was the religion of our country, and we were bred up in it; and a religion bottomed on such a foundation as this, will easily be deserted on the hope and prospect of some wordly advantage. Some said, that Sir William Waller had yet a reserve behind of assistance from the Duke of Brandebourg, and the other Protestant princes of Germany; but a new attempt against the King was judged by all ane impracticable folly, ther bad succeffe being so recent still in ther memory.

To mingle in a litle of Scots affairs heir, becaufe of ther contingencie; in my Juridick or folio law manuscript, in the moneth of Jully, (page 15,) I have the account of the forfaultor of Denholme of Wafttheilla, and Mr. Gilbert Elliot, absent fugitive traitors; and the condemning of Mr. William Spence and Stuart younger of Coltnesse to be hanged, for being in Argile's rebellion, and ther reprieveall; with the taking and continuation of Messrs. Charles and John Campbells, sones to Argile; and the apprehending Mr. Archer, on of Argile's ministers, and of Griffiffs, a non-conformist minister's sone in England, who also came with Argile; and the tuife robbing of the English packet coming to Scotland, and the 2 conjectures theirupon; item, the sending ane yaucht for Sir John Cochrane and Collonell Ayloff, to bring them to London, to discover the plotters more fully to the King, and the bad principles of Sir John's son, Waterfyde, &c. It was reported, that ther ware found on the Duke of Monmouth, at his taking, fundry books and manuscrips, and particularly on all written with his oun hand, full of spells, charms, and conjurations, with fundry songs, receits, and prayers; item, 2 manuscrips of fortification and the military art, with another computing the yearly expence of the King's navy and land forces.

It was found, after examination of the prisoners, that our countryman Andrew Fletcher of Salton came over with Monmouth, but when they ware mounting themselves with robbed horses, he and Master Dare, a goldsmith and alderman of Taunton, discording who should have a horse, he pistoled the said Mr. Dair dead; wheiron such ane uproar happened, that the Duke of Monmouth could not undertake to secure him, (for the said Dair was of the first who brought in men to Monmouth,) wheiron he was forced to retire to Holland or Spain; which accident tends to the preservation of his life at this tyme, yet it makes his proceffe of forfaultor very clear, which was dubious before, Argile having so far vindicat him, that he declared he wrote severall tymes to

Salton, and he was so ill-mannered he would never once returne him an answer; tho he was guilty in not sending over Argile's letters (if so be he received them) to the King or his officers of state, but his coming with Monmouth puts his guilt beyond all contradiction. Salton was always observed to be turbulent and factious. I heard, in the Parliament 1681, he sent sundry unsubscribed letters to the Laird of Maccairston and other members, desiring them to oppose the act of the Duke of York's succession. See *infra*, pag. 112. By Monmouth's printed letter to the King, it appears he would have redeemed his life with the lowest submissions and acknowledgements of guilt, and that he had that to discover which would give the King a happy reigne; but, finding the King inexorable as to sparing him, he turned obstinate, and would not confesse he thought his rising in armes a sin. The clergie, who assisted him at his execution, pressed him much; but he shifted alwayes to give them any direct or categoricall answer, as ther printed discourse bears. They also urged him anent his keeping of Lady Henrietta Wentworth, who had borne him children: he could not be convinced his converse with hir was any sin, for both he and shee had oft prayed to God to reveill it to them, and they had still peace; that his father had choised the Lady Buccleuch to P. 110. be his wife in his younger years, but Lady Henrietta was the wife of his affections; and all the lenth they could get him, was to say, if it was a sin to keip hir, then he prayed God's pardon for it; wherthrow they ware forced to deny him absolution, or the sacrament of the Lord's Supper, only they intreat God to accept of his generall and imperfect repentance, and to forgive him that grosse error in his judgement, that he might keip 2 weemen at once. Others denied he had any carnall dealing at all with the said Lady Henrietta; and his apologie on the scaffold seimes to make for this. His Lady, at hir first visit to him at the Tower, throwing hirselfe at his feet, fell a swoond and being recovered, obtested him to declare, if ever shee had been uneasy to him, except in the matter of his weemen and

disobeying his father, and if shee knew any thing of his designs: he did with a groan purge hir. But his assuming the title of King unsecures his children; he had a very pretty boy whom the late King made much of, and was reported to have the mark of a lyon on his fyde, and to have dyed suddenly within thesse 5 or 6 moneths, which awakened the suspicious tongues of ill men.

The Under-sheriff Mr. Goodeneugh (who was he that arreifted the Mair of London in 1682, *supra* page 51) being brought in prisoner, confirmed that Keeling (the first discoverer of the Protestant plot in 1683) had said and affirmed, that it was Shaftsberrie's faction who, in 1678, murdered Sir Edmundbury Godfrey, the justice of peace, and yet laid it on the Papists. On his examination Alderman Cornish and Captain Rumfay, (who had got a remission, and yet had remitted money to the rebels with Monmouth,) are again apprehended. As also, ther are imprisoned in the Tower, Gray, Earle of Stamford, the Lord Brandon Gerard, and Booth, Lord de la Mere, as on the forknowledge of Monmouth's treasonable invasion.

So, as I have observed *supra*, our present King's reigne resembles somewhat that of Henry the 7th which was turbulent and factious; but, to prevent future events, the King hes tane advantage of this juncto to raise ane army (I know not how England will like it) of 20,000 standing forces in England, whei of the Earle of Feversham (now made a knight of the Garter) and our popish Earle of Dumbarton, are made Lieutenant generalls, (some said it was Leg, Earle of Dartmouth, also a papist,) and it is calculate, that it will take 500,000 lb sterling yearly to pay them; and he is to have 15,000 men up in Ireland, and our standing forces are to be made up 5000; in all ane army of 40,000 men, which will danton and quash any attempts in the bud; (see *infra*, page 112.) On this discontent, that others were preferred above him, the Duke of Albemarle, Monck's sone, valueing himfelse on his father's services, demitted his

Captainship of the King's guards, and other offices, which were accepted of his hand, and bestowed on Feverham.

The King was so well pleased with the loyal carriage of [Peter Mews,] Bishop of Winchester, because he could not create a churchman knight of the Garter, yet he gave him a George to wear about his neck as a badge of his favor. Bennet the Earle of Arlinton, once Secretary of England, and then Lord Chamberlayne of the King's household, dying at this tyme, the King bestowed his place of Chamberlayn on Bruce, Earle of Ailesberry in England, and Elgin in Scotland. At this tyme also, dyed Sir Lionell Jenkins, late Secretary of State, who had done the late King good service, and begged leave to retire a while from the world before his death.

It was reported, the King had got so full information from the English prisoners of all the designe both of Monmouth and Argile, and that some Anabaptists from Holland, &c. advanced them money, that he was not P. 111. resolved to call for Sir John Cochrane at all; and truly it ware generous in our King to stop the torrent of any farder delations and discoveries, leift men throw love to ther owne life, draw others in hazard, and let him do as Julius Caesar did when Pompeyes cabinet, papers, and letters fell in his hands, he would read none of them, but threw them all in the fyre; and it might tend much to quiet, unite, and secure the minds of his peeple that he would grant a generall full indemnity and pardon.

Dangerfeild, on of the witneses of the Popish plot, having been convict of perjury and falsehood in the Narrative theirol he published, he was ordained to be scourged and pillorized; and in the going to Tyburne on Francis, a counsellor at law, came and thrust the point of his staff so far unto his ear that he dyed. (*Queritur*, If it would have been homicide if Dangerfield had been a malefactor sentenced to dy? for then he only anticipated the time: see notes on this quæstion alibi.) See for this Ant. Matthæus de Criminibus, p. 909, et seq. Francis is found

guilty, by a verdi& of wilful murder, and the King is so juſt as to ſuffer him to be hanged.

On Captain Culpeper having ſtruck Cavendiſh Earle of Devonſhire, in the King's preſence chamber, ther is a Court of Verge held on him, conſiſting of all the officers and ſervants of the King's houſe ; who, conforme to ther law in ſuch a caſe, adjuſge his right hand to be cut of, (ſee our 173 a& of Parl. 1593, in that caſe,) and fyne him 1600 lb., and imprifonment during the King's will. Cutting of the hand, at leiſt boring it, is injoyned by the 6^t chapter Statuta Wilhelmi apud nos, in ſuch a caſe.

The Spaniſh Embaſſador complains to our King that the Engliſh bucaniers, robbers, on the coaſt of Jamaica had plundered Vera-Cruiz ; the King promiſes to ſuppreſſe theſe pirates. The Engliſh Eaſt India ſhips bring home ſundry ſtrange creatures, and particularly a man with a monſtruous child growing out of his breaſt, that eats, drinks, and evacuates by urine ; they are bid 500 lb. ſterl. for him.

And to ſtep a litle over ſeas, Amſterdam becomes ſo ſtubborne and elevat againſt the Prince of Orange, by the prote&tion of France, that they reſuſe to pay ther proportion of the late tax impoſed by the States-Generall, and threatens, if they be preſſed, they will declare themſelves a free port, and deſert the union. At the court of France, with great ſolemnity, ware keiped the nuptials of the Duke of Burbon, ſon to Enghien, and grandchild to the Prince of Conde, with Madamoiffelle de Nantes, that King's naturall daughter by on Madam Montaigne ; he gets in tocher 400,000 livres, and the reverſion of all his father and grand-father's places. Vienna will not be behind in joy, for their is ſolemnized the marriage of the Ele&tor Duke of Bavaria, with the Archdutcheffe of Auſtria, the Emperor's daughter ; but ballances him againſt France, the Dauphin being married to his ſiſter. Some whiſper, that the Prince of Orange knew of Monmouth's coming over to invade his father in law in

England, which is very improbable; however, it seems the King thinks fit to passe over all the provocations given him by the Hollanders, seeing he has renewed his brother's traitee with them, and signe da defensive league, leaving room for the Emperor, the Spanish King, the Duke of Saxonie, and others who please to come in: for this is looked upon as a bar as strong to humble France as the triple league of Aix-la-Chapelle was, and tho there was fears of a rupture with Holland about Bantam, yet it proved a very acceptable union as any thing the King could have done to England; for their princes are ambitious, their being of one religion does not foudner them. And it was reported, that France had the Duke of Crequy ready with an army to fall in and take Namur, in case the Turk had prevailed over the Imperiall forces, and that it was Montmorency Duke of Luxembourg, who commanded Buda the last year, and passes as Serafsquier Bassa this year, and was privily sent by the French King his master to assist the Turk, and that he was unknownen to the generality of the Turk. It was alledged by some, that Foord Lord Gray betrayed the Duke of Monmouth, and discovered his designs to the King's forces before he came, and stood off without fighting, having the King's remission in his pocket, secretly sent him 3 dayes before; otherwayes there was probability enough that Monmouth being stronger, might have surprized and defeated that part of the King's forces he fell upon.

On the 15th of August 1685, one of the King's yachts arrive at Leith with two prisoners, viz. Mr. Bruce and Brandenburg the German, both taken with Monmouth, sent down to Scotland to bear witness in the forfaulting of Monmouth, (by which his Jus Mariti and moveables, which will be 20,000 lb. sterl. of bygone refts, will fall,) and Andrew Fletcher of Saltoun; but in regard their former libells boor not this late cryme of invading England, there was new indytements raised against Salton in 60 dayes, and Monmouth's airs sicklike, (whose daughter, Lady Anne, dyed at this tyme of the small pox in the Tower of London). Salton, before this attempt of

his in joyning with Monmouth, was in a fair way of being absolved, for Argile purged him. They say, what irritated him was, that the present King hearing he was at Bruffells, sent over privily to the Marquis de Grana to cause apprehend him; whei of Salton getting account, it forced him to flee in to London, wher he met with Monmouth's unfortunate company, and associat to him. Supra, page 109, we see how he leaves England; it was said that ship landed at Bilbo in Spain, wher he lurked incognito. The yaucht which brought doune his witneses, did, by his Majestie's order (tho supra, page 111, that was demurred on a while) carry up Sir John Cochrane, and his sone, and Collonell Ayloff, to make what farder discoveries they could.

Supra, page 110, we see the King raises mo forces, yet he disbanded some, whei of the reason was said to be, that by this means he might get out some officers, and put Roman Catholics in ther place. However, to humor the English, he wisely published a very strict proclamation regulating the souldiers, that they should exact nothing but what they payed for, nor quarter in any man's house without his consent, nor threaten nor extort from any, under the paine of cashiering and farder punishment. The King forbears some time to lift the imposition the Parliament had granted him on tobacco and sugar, because the merchants of Bristoll, by a remonstrance given to him, undertook to make it appear that the said tax would doe his forrain plantations in America, and his customes at home, more hurt then all the profit he could have by it. Among other prisoners brought in from the west of England, Mr. Wade is on who was at first reported to have been dead of his wounds: he is declared fugitive in the King's proclamation in 1683, as being then fled for the plot. Nelthorp is also tane, and Spek, father-in-law to Trenchard, surrenders himselfe; and Sir Gilbert Gerard, and the Earle of Mecclesfeild, are, upon suspicion of ther accession, sent to the Tower. Nine of the rebels (amongst whom our

Fergusson was suppos'd to be on) fled in an open boat to Amsterdam; but the States have promised to apprehend them if they can, which is intimation enough to them to flee out of their territories. The Bishop of Bristol being removed to Chichester, the King named Sir Jonathan Trelawny (who having been in orders before his brother's death, fell into his estate and honor) to be Bishop of Bristol, and Doctor Whyte is created P. 113. Bishop of Peterborough.

Supra, page 105, we see a conspiracy against the King of Spain, by a Frenchman and his wife, whom he had turned out from being master of the horses to the Queen, (who is the Duke of Orleans's daughter,) which did so incrage them at the French, that not only did the constable of Castile, seize on them, and execute them, but also all the French were banisht the court, but only the Queen's confessor, his cook, and one maid of honor. At the same tyme, Francis Garlandyne, Secretary to Sir William Sidney Godolphine, the King of Brittain's Envoy at Madrid in Spain, is killed in a quarrell by some Spaniards, who immediatly took sanctuary in a church: the Embassador demanded justice and satisfaction. The Duke of Bowillon and others, are also banished the Court of France, for writing defamatory letters against the King and his government, to the Princes de Roche-sur-Ion, and Conty, who are assisting the Imperialists against the Turk. Letters from the East Indies boor, that the Hollanders there had tane care to convert of the infidels there, to the Protestant christian religion, near 50,000, and had baptized them, and that they had 3 ministers, and were sending more: so what the reformed religion loses of ground in Europe, it gains in Asia.

About this tyme, dyes the Lord Roberts, Earle of Radnor, a moderate presbyterian, who had been Deputy of Ireland, and president of the English counsell in the last King's tyme; and with us dyes Leviston, Earle of Calander, and Generall Thomas Dalzeell, very suddenly, who got a very splendid buriall after the military forme, being attended by the standing

forces, horſe and foot, preſent at Edinburgh, and 6 peices of canon drawn before his herſe, with his led horſe and generall's batton, &c. Some ware obſerving that few of our generall perſons in Scotland had come to ther grave, without ſome tach or note of diſgrace, which Dalzeell had not incurred, and inſtanced in Leſly, Earle of Leven, Leſly, Lord Newark, Generall Hamilton, Houburne, Montgomerie, Monro, Monmouth, &c.

In the end of Auguſt 1685, we had the grateful news that the Duke of Lorrain having left the ſiege of Newhauffell, to releive Gran, before which the Seraſquier Baſha had lyen doune to make a diverſion, he had ther given the Turkiſh army, conſiſting of 40,000 men, a conſiderable defeat, and had ſlain 4000 of ther janizaries, and ſo releived Gran. And at the ſame tyme, the Count de Caprara, and Duke de Croy, (whom Lorrain had left with 20,000 men, before Newhauffell) ſtormed it, and took it by force, committing a great ſlaughter and ſpoill, wheirby this toun of Newhauffell, which had groaned 22 years under the Turkiſh yoaik, is now reduced to the Emperors obedience. The French King ſent over the Mareſchalls de Humieres, (Feverſham's uterine brother,) and La Ferte with the Prince d'Iſingen, to complement our own King on his victorie, (*an ex animo problema eſto.*) The King put all the demonſtrations of honor imaginable upon Humieres, becauſe, he ſaid, the Mareſchall de Turenne had aſſigned him to be tutor governor and maſter in the French wars, and had been very kind to him in breiding him: at his parture the King gave him a medall, ſet with many jewells.

The Portugall Embaſſador being to part from London, did very honeſtly inſert a printed advertiſhment in the Gazettes, that if any had ought to claime of him or his retinue, of debt, &c., they coming to ſuch a place ſhould be ſatiſfied.

- P. 114. About the 18th of Auguſt, the Duke of Queanſberry, Hy Treafurer, by a call from his Majeſty, goes to Court, the Chancelor being diſſatiſfied that he was not called alſo. This drew many of our countrymen to London,

some before him and others after him ; as the Earle of Tuedale, Lord Maitland, Lieutenant-generall Drummond, Lord Braedalban, Lord Balcaffie, Lord Boyne, Lord Castlehill, Sir George Lockhart, Sir John Falconer, Hew Wallace, cash-keiper, Sir David Thoirs, and Mr. James Grame, advocats, Mr. William Moir, clerk, Mr. Sletzer, ingeneer, Captain Straiton, &c. The Chancelor followed to Court in September ; (see ther animofities, *infra* p. 124.) The Chancelor, Duke Hamilton, and Duke of Gordon, (which tuo laft were alfo at London with Secretary Melfort,) aimed to have the Treafurer's office put in a commiffion to 5 or 6. The Treafurer thought to flop Generall Drummond's going up, by calling for his counts ; but he had ane expresse letter.

At this tyme, we had ane account of a barbarous murder committed by the phanatique Whigs at Lefmahaigo, on Mark Ker, bailzie their, for affifting to take Rumbold : it was faid a fone, freind, or fervant of Rumbold's was with them, they called for his piftoll and whinger which he had tane at his difarming, and with the whinger rip't up his belly, and took out his heart, as Rumbold was ufed. See my law manuscript, anent the banifhing my Lord Argile's 2 fones, the liberating the Cefnocks, Park Hay, Blarquhan ; the executing of Mr. Archer the minifter, and others, who had been in the rebellion ; the continueing Mr. Spence, &c. On Miftris Lifle having refett Nelthorp and Wade, rebels, who came in with Monmouth, and fled to hir houfe after the defeat, and lurked ther till they ware dete&ted by hir ftewart, who told hir of hir hazard, fhe is proceffed before Sir George Jeffries, Lord Cheiff Juftice, in his western circuit, and found guilty of treafon, and ordained to be brunt, (I think not alive, but after ftrangling,) becaufe the quartering of men traitors could not with modefty be exercifed on a woman's body, and hanging or heading is too gentle. Hir hufband was on of King Charles the 1st jury, and on his fones returne in 1660, fled to Suitzerland, and was killed and affafinate ther at Laufanne, by 3 Irish men, who expected a great reward

from the King for this service, but he gave them none. Shee was a woman very disaffected to monarchy. On Beatman, a chirurgian, for resetting Sir Patience Ward, is like to run the risque of his life: so this cryme of resetting and concealling is like to prove as dangerous in England as it is with us; only they are securer, because they require it be wilfull and witting, which our judges of late take not so much notice to. At last the Earle of Rotcheſter prevailed with the King, that his sentence of burning should be remitted, and commuted into heading at Wincheſter. The Biſhop of Bath and Wells did attend him, moving ſhee might diſcover what ſhe knew of the plot; but ſhee dyed obſtinate, and would not accuſe others.

There was at this tyme a talk of a great deſigne in making our King Proteſtor of the Spaniſh Netherlands, and that the King of Spain, as a pledge and ſecurity theirow, ſhould give him Newport and Oſtend, as cautionerie townes. The United Provinces made ſuch a ſtipulation with Queen Elizabeth, and King James was blamed as too honeſt in giving back theſe townes he had in guaranty, and our King is to ſupply them with men; this, with the league betwix him and Holland, into which the Emperour, Spain, and Brandenbourg enters, will be a check to France's ſwelling. Morofini, generall for the republique of Venice, with Seigneurs Delphino and Molino, give at this tyme a great defeat to the Turks, killing Mehemet Baſſa, and the Viſier, Calil Baſha, and taking the city of Coron from them, the capital of Morea, which has been now 200 years in the Turk's poſſeſſion, and put 4000 Turks within the towne to the ſword; becauſe, having hung out a white flag to capitulat and parley, and the Venetians ſending of ſome, they ſprung ſome countermines, and diſcharged 2 canons, and thereby killed fundry Chriſtians, which treachery ſo irritated them, that they ſpared few or none of the Turks.

Heir the Prince of Savoy, the Duke's brother, was killed. And to prove

P. 115. this ſummer to be fatal to the Ottomans, our valiant countryman, Count

Lefly, (of the house of Boquhayne,) does beat the Turks at the bridge of Effleck; so that the Serafquier Basha, by a letter closed up in latin (conforme to the Turkish manner,) to the Duke of Lorrain, very humbly feiks peace, and conjures him in the name of God, to be content with the glory he hes got already, and to spare the effusion of any more blood, and the ruine of so many poor peeple, and offers to abandon Tekely, and to redeliver the Emperor's 3 hostages, and he strangles the Basha of Buda, and some others, for first running away at the battell of Gran. He answered, a victorious army was not to be amused with such overtures as thesse, and that he would remember how he had used the Emperor. Count Tekely also sent to capitulat, but was dismissed without any hopes. Then General Shulzts assaulted Esperies, a strong toune, and having sent in an officer to move them to surrender, they shot him to death, and the governor put up 3 gibbets to hang thesse magistrats, burgers, or souldiers, who should move a yeilding; this irritated so, that Lorrain sent a detachment of 8^t regiments, wheron they surrendered. Then Possaga, the capitall of Sclavonia, and Agria, was besieged and blocked up by the Christians, and Calfhaw surrendered to them.

At this tyme, the persecutions of the French protestants, in Bordeaux and Guyenne, became very cruell; for troupes of horse ware put on all thosse who refused to goe to Masse, who eated up all they had, sold ther wholle goods and furniture, and used all manner of tortures on them, except death: and if they be tane, ather concealling away ther goods or persons, ther is nothing but present death. The Hollanders, hearing that some of ther natives ware so used, made a remonstrance to the French King, that they might not be treated as his other subjects, seing by the 10 article of the Marine treaty betuixt them, the Dutch ware to have liberty to goe or stay with ther wives, goods, &c.; 2^{do}, They required him to give back the Prince his Principality of Orange. It may be God in this extremity (ther being only 6 families in Bourdeaux

not turned popish) may appear in behalf of theſe poor people;—yet, at the ſame tyme, the ſaid tyrannous King is hectoring the Pope, and cauſed affix thir 4 theſes on the Pope's Nuncio's door at Paris, 1^o, That the Pope's authority only extended to Spiritualls; 2^{do}. That he had no power over the Temporalities of princes; 3^{tho}, That he is ſubject to Generall Counſells; 4^{tho}, That his declarations are not to be receaved unleſſe they be approved by the Univerſall church; and which were defended the next day, all the Archbiſhops and Clergie, at the King's command, being preſent. And for all this, ther are few Popes who have ſittin in that chair better men then the preſent; who, for peace, hes offered Germany back the cup, and to think of Tranſſubſtantiation as they pleaſe, &c.

The Judges in the Engliſh Circuit Court goe on rigorouſlie againſt thoſe who roſe in rebellion with Monmouth; and they proceed with far greater ſeverity then we; for not 6 have ſuffered on Argile's rebellion, but of the 1300 priſoners in England, ther is 331 of them hanged and quartered, 46 pardoned, as worthy of mercy, and 800 and mo ſent to the plantations.

At this tyme, in September 1685, dyed North Lord Guilford, Keiper of the Great Seall of England, and 3 ware candidats for it, the Marquiſſe of Halifax, Turner, Biſhop of Ely, and Lord Jeffries of Wem, Cheiff juſtice; which laſt got it with the title of Lord Chancellor, and ſo hes riſen from being Recorder of London to this eminence. Sir Edward Herbert gets Jeffries' place of Lord Cheiff juſtice, and Sir John Trevor ſucceids him as Cheiff judge of the principality of Cheſter.

Count Tekely in his negotiation cauſed offer to renunce the title of Soverain Prince which he had hitherto aſſumed, and that he would be content of a Generall's place under the Emperor by his commiſſion, as was granted to the Governor of Eſperies; but it was reſuſed him.

P. 116. In September 1685, ther was a great outcry at Edinburgh againſt Sir Robert Sibbald, doctör of medicine, who had carried over Popiſh prieſts

to the Countesse of Perth, the Chancelor's lady, and perswaded hir to dy in that communion; but also had openly deserted the Protestant religion himselfe, and abjured it in a Popish meiting, tho he had many tymes taken the Test, and so was perjured, and had made steps first from phanaticisme and conventicles, to be ane hy flown Church of England man, and now had landed in Popery:—whether this apostacy and desertion flowed from conviction or no, I shall not judge; but ther is too much ground to suspect any who turns now, does it with a designe to gratify the King and get præferments; and his manner of doing it was blameworthy in turning with so much pomp and ostentation, tho *Religio Medici* uses not to be very troublesome in the world. We ware also much stumbled with a litle book, then printed at Edinburgh, ather published by the said Doctor Sibbald, Robert Barclay quaker, or David Fairfoull the jesuite, or some priest, called, “Pax Vobis, or Gospell Liberty;” the wholle strain of it dryving at this, that, by the principles of the Protestant reformation, a man might beleive, without any challenge, what he pleased, for our rule of faith was the Scriptures not interpreted by the Pope and counsells, (as the Papists take them), but by every private man of sound judgement, so that if any think the Scripture inclines to Arrianisme, he may safely beleive, and whenever he changes his view of the Scriptures, he may as oft change his religion. The designe of the book is very knavishly contrived to baffle, disgrace and affront our reformation; alledging Melancton maintained bigamy; Calvin, that Christ despaired on the crosse; Beza, that the Sacrament may be adhibite in other elements then bread and win; but his citations out of them are false and distorted. Being write dialogue wayes, it's easie to put no argument in his antagonist's mouth but what he can easily answer. Tho the Protestants doe not teach implicit obedience to the Church's sence of the Scriptures, so as to impose approbation and positive consent to all its dictates, yet this far we require union and communion, that wher we cannot give our assent, we are, for

peace's sake, to avoid schisme, to submit, comply, and be silent ; so that ther is a vast difference betwixt approbation and a naked submission, which is our duty in all cases wher the error is not fundamentall, for then and their we are to separat. This is a submission of practice as to circumstantials, but not of judgement, for without praevious information and conviction, on cannot surrender, abandon, and give up that ; let all other contentions betuen us and the Papists cease, let all resolve and end in striving who shall be most holy, humble, and most obedient to God's revealed will. But tho we doe not maintaine infallibility, yet we have God's promise that the universall church shall never totally erre in fundamentals ; (see more of this alibi.) Tho the author would passe for ane Protestant, yet it's most evident his designe is to shake and unsettle us in our foundation, hoping that our reeling will at last land us at Rome.

The Marquise of Hallifax (for speaking somewhat against the introduction of Poperie, as was surmized,) is dismissed from the English Privy Counsell, and laid asyde ; which was the more noticed, that he was almost the sole person, in the House of Peers, who first choaked and opposed the Bill of Seclusion of the present King.

Mr. Cornish, late Sheriff of London, and a great follower of Shaftsburie, on the testimonies of Rumsey and Goodeneuch, that he was present in Shepherd's house with Monmouth, Russell, &c. at Fergusson's reading the treasonable Declaration, is found guilty, and hanged, drawn, and quartered on the 25 day of October 1685 ; he dyed firmly denying the truth of the things sworne against him. On Mistris Gaunt is condemned to death, and brunt at Tyburne, for assisting on of the Western rebels with Monmouth to escape, and giving him money : tho this was Lady P. 117. Sophia Lindfeye's guilt in conveying away Argile, yet all hir punishment with us was only some tymes imprisonment.

The Lord Jeffries Chancellor, among other good rules he made at his entry this was on, which the lawyers condemned much, that wher any brings in a

bill in Chancery to difmiffe proceidings at common law, that he who paffes from the action, or tranffers it from the one court to the other as *temere litigans*, fhall pay the dammages and expences the other on oath fhall declare he has been at. The Earles of Devonfhire, Dover, and Thanet, lay doune ther commiffions as Collonells to 2 regiments, becaufe, it was faid, they faw Popifh officers mainly trusted in the army. The Earle of Aylef-berry, but lately made chamberlayn of the King's houfe, (fupra page 110,) dyes, and the golden key and white ftaff is given to Lord Mulgrave, who fucceeds him in that place. John Ayloff, tane with Argile in Scotland, (fupra page 95,) being tranfmitted to London, was, in ther O&ober feffions, brought before the Lord Cheiff juftice Herbert, and, on the old outlawry againft him, is condemned to be hanged, drawen, and quartered. Richard Nelthorp, alfo ane Innes-of-Court man, as weill as Ayloff, and bred up in the laws, being tane with Monmouth, was alfo execute that fame day. Ayloff, if he had forfeen this, might have efcaped in Scotland, being kept ther very laxly prifoner by Dumbarton's favor; he dyed compofedly, praying for the King and the Protestant religion. Nelthorp was more fullen and quiet. Ayloff would have got his life if he would have difcovered and delated others, (as our S. J. Cochrane does,) but he refused to indanger any for preferving his oun life.

In O&ober 1685, the English Seffions fitting doune, the new Lord Cheif juftice Herbert, in his charge to the grand juries, pitched upon 4 particulars: 1^o, That perjury was turned very frequent, the nature wheir-of he opened up, that it not only confifted in fwearing to much, as Oats had falſely done, but alfo in fwearing to litle, and leffe than the truth, as Shepherd had done at Cornifhe's tryal, (page 116,) in firft denying that he held the candle when Cornifh red the Declaration, till Rumſey fixed it on him; fo this touches the conceallers of the truth when the are upon oath. 2^{do}, He repreſented that ther was ane account of 6000 rebells in armes with Monmouth in the weft at the laft ryfing, and all they had yet

apprehended, hanged, or banished, was only 2,500; that it was not likely that many of the other 3,500 resting had escaped out of the kingdome, and that they were but a few yet who had been convicted of resetting, tho certainly they were harbored; and especially, he doubted the city of London, and therfor he craved the constables might take up lifts of any new intrants, or of any who were absent from their houses at that tyme, and so may be presumed to have gone into Monmouth then: this is taken of our acts of Privy Counsell and searches, whereof the King and those about him are much enamoured, as the readie and most expedite way to discover lurking fugitives. 3th, He recommended the putting the acts against separation from the Church in execution, and he lookt upon it as remarkable, that since it was done their churches were beginning to fill much better then they did. 4th, He reprovved them for the increase of beggars; that a man could not stand on the street for them; and yet they robbed and broke houses in the night.

In the same moneth of October came forth that cruall Edict of the French King's against his Protestant subjects, whereof I have the double both in French and English; shewing his father and grandfather Henry, had given them priviledges by the Edict and Pacification of Nantes in 1598, (see this Edict of Nantes at great length in Du Serre's Historie of France, anno 1599,) and of Nismes in 1629, because they were imbroiled in civill wars; but he now injoying a profound peace resolved to have all
P. 118. his subjects of one religion; and therfor he called, annulled, rescinded, and revoked all these edicts and their priviledges, and discharged all publick or private exercise of that religion, pretended reformed, under the pains of death, (which is borrowed of our acts of Parliament against conventicles as one would think); and that all the ministers voyd the kingdome within 15 dayes, otherwayes to be put in the galleys; but if they turne Catholicks, then they are to get a third more then their former stipends, and their reliques to enjoy it during their viduities; and if they will turne

advocats, then they shall be admitted for the halfe dues that others pay. Therafter he declared this did not extend to strangers Protestant, but only his oune subjects; at which restriction the Popish clergie were displeased. For a tyme, onlie, he hes excepted from this rigor the Duke de La Force, the Marefchall de Schomberg, Mr. Rubignie, Mr. Du Quesne, and 2 or 3 moe of the nobility whom he hes use for in the war. He caused search the English packet boat, *contra jus gentium*, and some of ther merchand ships, and took out of his Protestant subjects who ware fleing from his cruallty: hee'l nather let them goe nor stay, as Pharaoh did with the Israelites; and the fugitives he charges to returne, and they not daring to obey he confiscats all they have left; he declares whatever Roman Catholick shall reset or harbor any of them they shall be condemned to the gallies; this is like our Intercommoning. (Vide infra, more, p. 123.) This was look't on by all sober Christians as a proud decree, like Senacherib and Rabsheka's boasting the living God; and that the steps by which his persecution had advanced ware very remarkable, he having at first promised that he would use no force nor severity, but only moral suasion to convince ther consciences of ther errors; but now he hes broke his word, and fallen to doune-right violence, tho they ware in no armes nor rebellion against him: this makes some hope that ther extremity may prove God's opportunity of stepping in and rescuing the litle remnant left as a firebrand out of the flame, tho near 200,000 peeple throw fear and compulsion, have apostatized and deserted. Above 700 waggons full of thir miserable Christians escaped in to Geneve, and many fled in to the Pope's toune of Avignon; and the French King redemanding his subjects, the Pope's Legat ther answered, he had orders from his Holinesse to protect them, and that such cruall usage was not the way to bring them back to the bosom of the visible Roman Church. Tho the present Pope, Innocent the 11th, (Udefcalchi,) be a good man, yet his espousing the Protestants was thought to be inumeur against the

French King, who opposed him in other things: yet the French Embassador tells the Pope, his master had now wrought that glorious work of having but on religion in France, at least onlie on publickly professed and exercised; so the Pope's protecting them seems only to be a feint and a sham.

Supra, page 116, we see Hallifax removed from the Privy Counsell; ther are other 4 who ware of his opinion, viz. the Duke of Ormond, the Earle of Bridgewater, the Vicount Falconbridge, and the Bisshop of London; thinking ther presence was not very gracious to the King, nor to Rochester the Treasurer, nor to the Popish party, they retired and absented themselves likeways, which produced bad effects in the following session of Parliament; infra, page seq. The Bisshop's name the King cancelled and razed out with his owne hand.

About this tyme, we had account of the taking of Count Tekely, who, finding the Imperiall forces prevaill, he sent to the Bassa of Great Waradin for assistance; who invited him very humanly to come under his protection, and he, doubting nothing, came with 500 horse, he and some few is let in within the garrison; but Tekely is that same night bound in chains, and sent away prisoner to the Grand Seigneur to Adrianople as the occasion of the war, and to be a sacrifice to ther offended Mahomet, who had suffered them to be bet these 2 or 3 campaigns. Then he offered the command of the forces to [Petrozzi,] who was with Tekely; who feimed to accept it, but, as soon as he was out, told what had happened, and went straight to Cashaw, and perswaded them to enter themselves in the Emperor's service, which they did. The Princeesse Ragotzi, Tekelie's lady, was much affected with this disaster. It was reported, Tekely ather dyed by the way, or was strangled, and his skin flead of and stufft with straw, and sent to Constantinople, to be shoven to the people as the origine of ther trouble, who condemne and approve only *ab eventu*; but this proved false, and the Turks keiped him alive then, and gave him 7000

men, but a bathaw waited on him as a spy, and, if the Emperor would make peace, they were content to sacrifice Tekely.

With us the observation of the 5th of November was altogether forgot, P. 119. (see the steps of it in my Law manuscript,) but at London it was never kept with such solemnity as this year; which irritated the Papists so, that the very next day they obtained an act of the King's Privy Counsell, that no bonfires should be put on hereafter upon any solemnity whatsoever, without the King's special licence and allowance, (which will not be granted to the 5th of November,) because under that pretence there may be riots, convocations and tumults, and the city is endangered in the strait lanes, with the multitude of their fireworks. About the same time, the King directs a letter to his Privy Counsell in Scotland, (see it at the 12 of Nov^r in my Law manuscript) allowing Papists to be Commissioners of his supply without taking the Test.

The English Parliament met again on the 9th of November 1685, by his Majesty's special call; where the King tells them that, in this late invasion, there was a great discovery of the insufficiency of the militia to suppress risings, which had moved him to double the standing forces had been in his brother's time, (for he will now have upwards of 22,000 men in arms;) and that this, with the designs of ill men yet working, required a great charge, and therefore he hoped they would grant him a suitable supply to defray it; and that he had made use of some to be officers in his army who were not qualified according to the laws (being popish,) but to deal plainly with them, he would rather expose nor desert them, having had experience of their loyalty, &c. The 2 Houses having retired, the Peers were induced to thank the King for his Speech; but the Commons demurred on it, they liked rather the one part of the Speech nor the other: a standing army they were not for, but were content to fall upon expedients to render the militia more serviceable and useful; and, as to Popish officers, they were willing to pass them a pardon by act of Parliament for

ther bygane a&ings, but would have them removed in tyme coming. It was put to the vote, whither a Supply, or ane Addresse against Popish officers should goe first, and ther was 184 for the Supplyes being first tane in confideration, and 185 for the last, so it carried only by one vote. The Addresse was formed in thir terms, and passed almost unanimously, thanking his Majesty for the great care he took in suppressing the late rebellion, and that he would be pleased to remove thesse fears and jealousies his people had of the growth of Poperie by laying aside thesse Popish officers. Then they past a supply of 700,000 lb sterling, to be collected of the East India wares, the win and brandee, (for they doe not willingly burden ther lands with cesse;) this the King did not value much, he being a great trader, and so his owne stock was to pay much of it himselfe: they also voted, that the title of this bill of supply should not be for paying ane army, but only for the King's affairs.

P. 120. The Lord Jeffries, Chancellor, brought in a bill to the House of Peers for rescinding the Test made in 1678 against transubstantiation, and for allowing the Popish lords (who are 17 in England) to come and sit in the House of Peers, which they alledge is ther birthright, and cannot be taken from them; and, seing our protestant Westminster Confession of Faith declares diversity of religion does not annul the Magistrat's right, nather should thesse laws and bars be put to seclude them from ther priviledge of fitting in Parliament, (tho, if they had once the power, they would debar and incapacitate the Protestants.) The King argues thus: the English Test was made against the Papists by the Parliament in 1678, in the tyme of Titus Oats's plot; and that being now found to be a forgery invented by his ennemies, to seclude him from the croun, he thinks the Papists should be so far redressed as to be put in the same very freedome they ware in before that tyme, for *sublata causa tollitur effectus*. Upon this motion of the Chancellor's, many of the nobility and bischops got up and shewed great resentment and indignation, clouds of them speaking at once; and he reprooving them, as

violating the order and forme of Parliament, on told him they knew what decency became a Parliament, as weell as he knew the King's Bench, reflecting on his rise. The peers, who used alwayes to be most tame and obsequious to ther Kings, turned very giddy and discontent in this Parliament; what had offended and allarumed them was the King's turning the Marquis of Hallifax, Bisshop of London, &c., (de quo supra p. 118,) of his Privy Counsell. Thosse who manadged the Protestant cause most, ware Annesly, Earle of Anglesea, Cavendish, Earle of Devonshire, with Hallifax, Bridgewater, Falconbridge, Mordant, Bisshop of London, (who declared his adhaerance to the Protestant religion, in name of the wholle clergie,) and Do&or Turner, Bisshop of Ely, (tho' of this King's oune inputting;) only the A. Bisshop of Canterbury and Durhame ware looked upon as lukewarme, and such as might be induced to comply with the King's desire. The Presbyterians took this honesty of the Bisshops in so good part, that many of them went and communicated with them. What displeased the Peers is, 1^o, That it's the temper and genius of English Parliaments to begin fair, and to be fond and kind to ther new Princes, but ther concord uses not to last long. 2^{do}, It was publickly knowen in London, that a Nuncio or Vicar-generall was come from the Pope to the King at London; and that our King again was sending the Earle of Castlemain as his Embassador to the Pope, and allowed him a noble retinue of 60 persons, wheiras ther [had] not been such Embassies passing betuen Rome and England, never since the reigne of Quean Mary thesse 130 years; and having seen the French Gazette printed at Paris, in the end of October 1685, I found it boor this particular from Rome, that his Holinesse was displeased with Cardinall Howard's conduct, who had divulged that the British Isles would presently retorne back to the bosome and obedience of the Roman Church, and that the Pope had sent a Legate to London; and he was dissatisfyed this should have been spred abroad so soon, till once the King had got his Parliament to consent to it. In the house of Peers

ther ware od speaches: ther religion (on said) was like the banks in Holland which bridled the sea; once make a breach in them, all ther hands would not be able to stop the breach and inundation. Some said, the French King would not have ventured to use his Protestant subjects so ill, had he not seen that England had a Popish King for ther head, who would not relent it. A 3^d took the boldnesse to say, that the King's promise for ther religion was not sufficient to rely upon, and that he had not renewed it to them in his Speech at ther last doune sitting. But it's observable that the King's declaration, emitted on his brother's death, (which is all the promise founded on,) only promises to preserve the government of the Church of England, because he had found ther bischops of loyall principles, (now that same government is also under Popery;) but ther is P. 121. never a word of his giving security to protect the doctrine of the Church of England, which is the mayne point. The Bisshop of London went to the King, and fell on his knees, intreating him to quiet and secure the minds of his peeple, in relation to ther apprehensions anent the danger of ther religion; and they say, the King turned on his heel, and answered, if they would not be content with what he had promised, he would satisfie them no farder.

As for the Commons, the King can never expect to get a better constituted House of Commons, for greit pains was taken in the electing them, and they are all men almost pricked down by the King himselfe as his freinds, and ther are about 150 of them, his defenders and pensioners: so that it behooved to be [a] very extraordinary demand of the King's that startled them; and the truth was, many loyall subjects wished he had not scrved the pine so hy in his Speech, as he left no honorable rounge for a retrait to himselfe, if the Parliament should not grant his desire; and the Quean, and his Italian counsell, with his priests, and Chancellor Jeffries, ware blamed for it. The Commons having brought up ther addresse against the Popish officers, he gave them a severe check and re-

buke for it, that he did not expect so undutifull ane addresse from them ; but, however, they should not provock him to be ane ill King. His brother, in 1672, granted a generall Indulgence, including even the Papists, and told his Parliament, at ther doune fitting, he had found the good effects, and would not part with it, yet they forced him to recall it ;—this King is of harder metall then Charles the 2^d was, but it would not do with him. On ther returne back to ther house, on Mr. Cook, a lawyer and captain, one of ther members, had this expreffion, that they ware free borne English men, they ware not to be hectorred and frighted out of ther laws, liberties, and religion, with big words : thir ware resented as a reflection on the King, for which misdemeanor, the House ware so loyall, that they, by ther oune authority, committed him to the Tower ; but his way of liberation was remarkable. The next day, the Parliament being prorogued by the King, and Cook hearing of it, he called for the lieutenant of the Tower, and craved to be set at liberty, in regard, by the King's prorogation of the Parliament, all that they had done was absolutly null, and consequently his imprisonment was so ; and in regard he delayed to set him at liberty, he took a notary and protested against him, that he might be liable to him at the rate of 5 lb. sterling each hower after that, for false and wrongous imprisonment, conforme to ther law ; wheron the lieutenant having taken advise, he was forced to let him goe free.

The benches ware setting up in Westminster Hall, wher the Peers sit, for trying Grey, Earle of Stamford, and the Lord De la Mer, Booth, for being upon the treasonable conspiracy with the Lord Russell, &c. ; and the King had given a commiffion to the Lord Rotchefer, Hy Treasurer, to be Hy Stewart in his tryall before the House of Peers, and the 21 of November was set as the day. But the King was so irritated with ther free discourfes on the 18, that he took resolution that same night to prorogue them ; which he did on the 19th in the morning, (which was knowen to few,) having come to the House of Peers in his robes, and the croun on his head, and called

up the House of Commons and ther Speaker, and so prorogued them himselfe, to the 10 of Februar nixt : for he speaks all himselfe, and delivers his answers, to take of the odium from his Chancellor. This prorogation took all of the fyle, to the very act of the supply of 700,000 lb., which did not so much as passe. The members of the English Parliament are observed to be very calme when out of Parliament, but seldome doe they return better natured then when they parted, but rather with 7 devills. On the prorogation, the benches were tane doune, and Stamford remanded to the Tower, wher he most ly till the nixt session of Parliament, for he cannot be tryed now at the King's Bench, being once tabled before the Parliament. The rich men in the city of London are very discontented, and so renders trade very dead, for the men of most wealth and money ther, being il affectioned

P. 122. to the present government, keep up ther money, and will not let it circulate in trade, and care not for a while to lose ther interest and profite. It's hard to know what measures the King will follow now : ther is but on of 2, ather to yeeld to his peeple, (which the Papists will never suffer him to doe with ther consent,) or else to rule at his oune hand, and use what persons he pleases in publick trusts, especially in his army, tho they be incapable by law, and in so far to dispence with the standing laws ; or being now disappointed, if he will prosecute some of the heads of his opposers, and convi& them as guilty of the plot, and by executing them before the 10th of Februar come, make the rest the calmer. However, it is our duty to pray God to direct him to observe the laws and gain the hearts of his peeple. Before the Parliament sate he acquainted Hallifax with his designe of taking away the penall laws against Popery, who dissuaded his Majesty and told him it would not frame, wheron he was discarded. It cannot be denied but Hallifax did great services to the King, for by his reason and policy, he broke the neck of the Bill of Seclusion against the present King in the House of Peers, and buckled with Shaftsberry therein ; but princes deall not with ther subjects as on man does with another :

subjects most not pretend nor clame to merit at ther princes' hands, for when you have done all you can for them, they think it but your duety, and that they are not oblidge to you for it, and if he make on wrong step, all ther former righteoufneffe is forgot. And heir they railed on Hallifax, as on who was of phanaticall principles, and on who had writ a pamphlet in favors of the Trimmers; and yet the Earle of Sunderland, at the same tyme, is advanced to be president of the Privy Counsell, and continues secretary beside, because he is now declaring himselfe popish, tho he was, the tyme of the Bill of Seclusion, this King's ennemy, and a promoter of that bill. *Ille crucem tulit praetium, at hic diadema.*

On the rising of the Parliament, it was reported, that the Earle of Devonshire had indyted Philip Howard and other popish officers of the army for breaking ther a&ts of Parliament, and accepting a public trust without the Test; and, for securing them, the King had ordained ane indemnity to passe his broad Seall, not only for bygane transgressions, but a remission and allowance to a&t in all tyme coming, notwithstanding the laws with which he dispences as to this point. If the King ware left to his oune temper, he is very moderat and generous; for they tell, that his preifts and confessors and feminaries, come from over seas, ware going to consecrate Windfor chappell, and to introduce some new modes and ceremonies therein, which the King refused to allow, saying, the Protestants who used it last ware not Pagans, but Christians as weill as they, differing only in some modes of religion; but they, maintaining us to be haereticks, esteime our temples as ill as Mahometan or Turkish mosquos, and so to neid new consecration. The King, speaking of our Scots Test, said, he saw a reason why the Roman Catholicks refused it; but he could not understand what name to give thesse men who called themselves Protestants, and yet refused it, or in what classe to rank them, for such seimed to reserve a tacite power to themselves to rise in armes when they should find themselves in a posture.

There was once a resolve at Court, that our Scots Parliament should be called, by anticipation, to sit before the English dyet of the 10th of Februar, to abrogate the laws against Popery, and so to cast England a good copie and example, as we had done in 1681, in declaring the right of succession; but this thought was afterwards laid asyde.

Grame, Lord Preston, is made master of the King's wardrobe. Item, the
 P. 123. Lord Brandon Gerard, eldest son to the Earle of Meckelsfeild, (his father being declared outlaw and fugitive for not appearing for treason,) is brought to his tryall, and found guilty of accession to the conspiracy, on the oaths of Rumsey, Gray, Keeling, &c.: he excepted against Rumsey and Gray that they were infamous, and that Rumsey had perjured himselfe in 2 contrary oaths in the tryals of Russell and Cornish: (supra p. 116.) He is found guilty, and sentenced to be hanged, drawn, and quartered; but was first reprieved, *fine die*, and then is pardoned by the King, because of a promise he had made, that he would forgive him all preceeding Monmouth's rebellion, if he was not in it; for the King is a severe observer of his word. So that report did not hold true, that he was convicted on a letter wrote by him, and now produced by Gray, inviting the Duke of Monmouth over. The King was resolved, in this last Parliament, to have passed an act that the Habeas Corpus writ should not liberate in treason, that the King might not be forced to insist or divulge his proofs ther, in cases of treason, before he were ready, which in experience he had found to be prejudiciall. The Dutcheffe of Portsmouth hath caused his sone, the Duke of Richmond, and Lennox, one of our late King's naturall sones, recant the Protestant religion, and embrace Popery openly in one of the head churches at Paris.

In November 1685, dyed William Cochrane, Earle of Dundonald, aged 80; who, from small beginnings, had raised himselfe to great wealth and eminence, and yet saw misfortunes come double on his family by his eldest sone's death, and his 2^d son Sir John invading his country, tho the

King hes pardoned him. He was under a bad report, as a corrupt man, and otherwayes.

On the 4th of December 1685, dyed Mr. Andrew Cant, minifter at Edinburgh, and Principall of the Colledge theirot; a stout ennemy of the Papiſts and Arminians, whom he confuted with much learning and acute-
neſſe, and was therfor litle or nothing regrated by the Papiſts, who re-
joyced at his death. The tounne counſell of Edinburgh called in his place
Doſtor Monro, Profeſſor of Divinity at St. Andrews. The Biſchop of
Edinburgh delt for his brother, Mr. Robert; but it was answered, he was
a layman, and, ſince the fundation of the Colledge of Edinburgh, ther
primars have alwayes been churchmen. Some propoſed to call Monſieur
Alix, the French minifter at Charenton, who was fled to London; but it
was objected he wanted our language, and they reſolved to have on who
could alſo preach in the Hy Church. The Biſchop objected, that he would
not give him collation to be a minifter of Edinburgh, for that was plurality
of benefices; they told him, he neided no collation from him as Principall,
and ſo he collated him only to on benefice. However, they delayed his en-
try till the Chancellor came home, in the end of December; and having
taken his conſent, they admitted him then into both the offices.

On the 15 of December 1685, dyed Sir David Falconer of Newton,
Lord Prefident of the Seſſion, of 5 days ſickneſſe: ſee the paſſages of it
in my 8vo. MS. of Seſſion Occurrents, page 94, et ſeq. The King no-
minats Sir George Lockhart of Carnwath, advocat, to ſucceid him: ſee
my folio Law MS. anent this and the candidats.

At this tyme, we heard the perſecution in France was grown to a
great height, (vide ſupra, p. 117 & ſeq.):—On of the converts from Pro-
teſtantifme taking the ſacrament from the prieſt, demanded the cup, which
he reſuſed as having no warrand from his ordinar to grant it, the convert
profanely takes the hoſtie out of his mouth and throws it on the ground,
ſaying, that ſhould not goe in his belly, ſeing they reſuſed him the win; P. 124.

he is seized upon and sentenced by some delegates commissioned from the King to have his lips pared with a razor, his gums, and all such parts as had touched the body of Christ, should be flitted off, with his fingers and nose that touched and smelled it; a barbarity more cruel than any standing upon record in the martyrologies of the heathen persecutions. There was also a person of quality, who had changed his religion, when he was dying the priest offered him the communion, he refused it, telling, he had obeyed the King and quite his religion to save himself from banishment, but he was not bound to follow him in things he knew were of no worth. After he is buried, being delated to the King as a relapse into heresy, he caused to be thrown his corpse and thrown them to be eaten, and what the irrational beasts refused to eat he burnt it. That he may not stumble them altogether, he has caused on Father Anelot [Amelotte] to translate the Bible into French; and it being printed, he has distributed many 1000's of them among his converts, in place of the Geneva version. We were all alarmed with an apparition seen above Paris of men and women incircled with fire, singing audibly that vindictive 94 Psalm. By this persecution France is much depopulated, many officers leave his army, and trade and commerce decays as it was.

Our countryman Dr. Gilbert Burnet having, out of curiosity, stepped out of France over the Alps into Italy, and visited Rome and the Pope, and viewed Naples, they give out that he has declared himself Papist; which, if true, is a great scandal to our religion, he having writ so much for it; others think that he may dissemble a change while he is there, to preserve himself from stobbing or poisoning. But it's a great injury to raise this report, if it be false; as it is now found to be.—The report of Dr. Burnet's being popish was most false.

Mr. Bateman the chirurgian is hanged, in December, for being with Monmouth.

On the 24 of December 1685, and the 28 of the same month, arrived

our Chancellor and Hy Treasurer from Court; so I shall shut up this year with the traverses of ther negotiations and accusations on against another. Having united ther forces to defeat the Earle of Aberdeen when Chancellor, they no sooner prevail but in a few moneths they fall into jealousies and misunderstandings amongs themselves; which took principally rise from the Treasurér's proud and hauty carriage, that would have all depend on him, tho the Chancellor was the first minister of state; yet he commanding the purse drew more followers than the Chancellor, who had only ane empty purse carried before him. The Chancellor crouched long, and willingly acknowledged he owed his place and all to my Lord. Treasurer's favour; but his brother, secretary Melfort, having gained much both on his prince's ear and humor, he set up for himselve, and would not receave instructions from the Treasurer, saying, he was long enough under pædagogie and subjection when he was his Treasurer depute. And so he infused, by his oune brisknes, some spirits and courage into his brother, and they began to act independent and neglect the Treasurer; which he, not able to indure, *hinc illæ lacrymæ*, each of them falls a censuring, ripping up, and accusing the actings of another, and obtains leave in August last to goe up to Court; which drew up such a troupe on the 2 fydes, that ther was above 200 Scots noblemen or gentlemen ther upon the on faction or other, which displeased the King exceedingly, beside the waft summe, calculated to more then 60,000 lb. sterl., that they drained Scotland of, and the bad copie they did cast the English by ther discording amongs themselves: it began in the naming a commissioner to our Parliament, wher (if Middleton had not preveined) Melfort had disappointed Queanberry of that ayme; but yet, fearing the bigarre incertainty of fortune, it was so contrived, that his commission lasted only for the first session of Parliament. Then Queanberry, to tach and affront Melfort, as if he and his servant David P. 125. Lindsay ware unfit and understood not what belonged to a secretary, all the signators and wryts passed in Melfort's weik, he quarrelled them as

ather informall in style, or prejudiciall to the King's interest, and returned some of them back again. This pickt Melfort exceedingly, and put him and the Chancellor to seek out quarrels against him. They charged Queanberry that he starved the King's affairs; and bestowed nothing on intelligence in Argile's invasion; and that he refused or delayed to advance money to my Lord Dumbarton, then generall; on his precepts from the West Country, in that exigent; and that fundrie rebells were harbored on his ground; but I think they lurked ther ather out of malice to draw him in a Premunire, or else thinking they would be secure ther, because none durst challenge them for fear of bringing him as master of the ground upon the stage, and in hazard. 3th, That he kept the last Parliament in June 1685, a week current after he had got his Majestie's order to raise it; and that he had dissuaded ane Indemnity. 4th, That he under hand had given advertishment to on Mr. William Weitch, a declared traitor, to flee out of the way. The Clerk Register, after the Chancellor was gone to London, and had given strict orders that none should have access to Mr. John Weitch, his brother, without the King's order, caused examine Mr. John, and he purged the Treasurer; wheron a letter was sent by Athol from the Privy Counsell to the King, drawn by Tarbet, shewing what hard case his Majestie's officers of state would be in, if they were suffered to be libelled and arraigned: (for Sir John Cochrane had touched Tarbet himselfe, and accused him with correspondence with Melvill and Monmouth). This was resented by the Chancellor and Melfort, and they obtained a rebuking letter from the King: (see all this at length in my folio Law MS., Sept. and Oct. 1685.) Item, the Treasurer had suffered the Toun of Edinburgh's count and reckoning for ther common good to sleip. Queanberry charged Melfort that he had tane a bribe from Bot. Milne and the other customers, to get them a precept on the Exchequer for £20,000 Scots, as pretended losse they had by the fyre at Leith, in August 1682, which consumed ther custome office, ther pretending many

of ther tickets and bonds ware brunt ; wheras Charles Murray, on of the said customers, discovered to the Hy Treasurer that they had no losse at all, but got that 20,000 lb. of profit from the King, and that his part of it was 5,000 merks., and which he was willing to give back again. The Treasurer said, he was a knave somewhat honefter then the rest. The Treasurer had upon his syde the Earle of Rotcheſter, the King's brother in law, and Treasurer of England, and Midleton and Hallifax ; ſo that the Chancelor, fearing he might be at a losse, did pull of the maſk and diſcovered and avowedly ouned himſelfe to be Popiſh, from which tyme his favor and court increaſed, ſo that he croſſed and contradicted the Treasurer in all things he propoſed, and particularly in the Proveſtry of Edinburgh ; for the Chancelor and Melfort oppoſed Abbotſhall's nomination to that place on no other head ſo much as that he was propoſed by him ; however Abotſhall had the good wiſhes and inclinations of the peeple, that he might be ther Proveſt. It gained Queanſberry ſome reputation with the Engliſh, that on day, having carried the ſword before the King to the Popiſh chappell, after he had laid it doune, he came furth and went to the Proteſtant chappell ; and, to weary the Chancelor, he entred in a long winded treatie of marriage for his ſone the Lord Drumlanrick, with a niece of E. Clarendon's, and a relation of the Lord Clifford's, and delayed it very long to get the pretence of ane earand to ſtay even to the 2^d of Dec^r, which was his oun marriage day. And during all this time, our great men ware not in ſpeaking termes, and it was probably thought that the Chancelor (whoſſe faith had ſaved him, as Hallifax wittily ſported,) P. 126. and the Popiſh party would have totally ecclipſed Queanſberry, had it not been for the rub the King met with in his demand from the Parliament of England, reſuſing to diſpenſe with the laws againſt Popery, (de quo ſupra, page 121.) But when this Remora happened, it moved that party to new meaſures, ſo as not abſolutely to diſoblidge Queanſberry and the Proteſtants who ouned him ; yet they prevailed ſo far with the King, as that he

told him he had done very ill things, tho he gave him a pardon and exoneration for all. The Dukes of Hamilton and Gordon were also great prosecutors of it, the last on the head of religion, and the first for his interrogating Tarras anent him, (de quo alibi.) Tarbet also, for adhering to him, got his large share in the misrepresentations passing; for, tho he was mainly instrumental in the secret committee, to get Sir John Cochrane reprieved, from an itching curiosity to hear his discoveries, yet he was one of the first whom Sir John branded. To load the Hy Treasurer, Claverhouse and Balcarhouse were sent for to London, and the King was so ill satisfied with what the Treasurer had exacted of Claveris, that he ordained the Treasurer to repay it. For ingratiating with the King, who loves money, the Hy Treasurer proposed 16 articles for raising money of Scotland, as; 1^o That he might get 10,000 lb. sterling of Edinburgh, for giving them back ther summer session. 2^{do}. Great summes from the other Burrows for ther malverfing in the common good, and for ther impositions on ale and bear; and suchlike methods, as Rushworth, in the end of his 1 tome of Historicall Collections, tells, were proposed to King Charles the I. for bridling the impertinency of Parliaments. Melfort opposed this, and said, this were to put Scotland so in his reverence, that he wanted nothing but the crown; and that it was like the counsell of Rhehoboam's young men to get his people's purses, but lose ther hearts and affections. These who would excuse the Chancellor's apostacy at this tyme, (a change now being so grossely impudent) they say, he was long ago a Papist, to shun the reproach; but this is a very bad excuse, to make him an Atheist all the tyme he was swearing the Test, and yet believed the contrare religion to be truer: but this is a forgerie, it being nottor that none was a greater mocker of the Pope and that religion on all occasions, yet now he is so bigot on it, as Collonell Whytfoord a papist observed, ther new convert would jade the Masse, he caused say it so oft; but *omnis apostata est suae sectae osor*; and, to expiate and take off suspicion, he must be a slave to

the new on: some thought, without a remission from the King, he might run the hazard of forfaitor, for the hearing of Masse and resetting Preists is declared such, A& 120 in 1592, A& 164 in 1593, A& 193 in 1594, A& 5^t in 1609, and A& 106 in 1581 *in fine*, wher the King may not dispenſe with ther laws. But the Chancellor and the rest of them expect the rescission and annulation of theſe Acts. They ware so child-ishly fond, that, on Christmas day, the Chancellor rocked a child in the cradle, in memorie of our Savior: this ceremony is not used by the French Romanists. See more of thir fopperies, *infra*, page 130. He got from the King 8,000 lb sterling, with which he bought altars, candlesticks, preists garments, and other ornaments and popish gauds for erecting the Chappell in the Abbey, and brought them home; and, tho ther be Acts of Parliament for seizing such trash, yet our customers past them.

On the 15^t of Dec^r, President Neuton dyes, and Sir George Lockhart succeids him. See it alibi.

P. 127.

ANNUS 1686.

IN the beginning of this year, our Chancellor having made his first appearance in our Privy Counsell, after his declaring himselfe popish, it was expected that our Bischops or other statemen should have entred a modest protestation; but it was not done: see of it in my law MS.; for the King, to secure him, had given him a letter, dispensing with his taking any more the Test. Likeas, he had prevailed with the English judges to give ane opinion, that the King could dispense with the pænal laws against papists; wherupon the King issued out his proclamation, dispensing with thesse laws, as to thesse named with a *non obstante* to the statuts. And did, by another act, declare, he prorogated the Parliament from the 10 of Februar to the 10 of May, and with this proviso, that they ware not to meet then ather unlesse his affairs ware pressing: this was because they ware yet in no better temper than before; but the statmen gave out that it was to shun the Venetian Embassador's memoriall, craving that the King, with the advise of his Parliament, might break of the trade he had at Constantinople with the Turk; which he shunned as prejudiciall to himselfe. By the taking the Lord Gray, ther being now another witnesse beside the Lord Howard to depone against Mr. Hampden, formerly fyned and incarcerat for 40,000 lb. sterl. for a misdemeanor, he is pannelled for the treasonable conspiracy with Shaftsbury, and carries himselfe so modestly, that throwing himselfe in the King's will he obtains his pardon. Then Booth Lord de la Mer, the loyall Booth's

fone, is brought to the pannell, and many witneffes depone againft him; yet he leads others who clearly prove alibi, that he was not at London the tyme of that treasonable confult, for joyning with Monmouth, they make him present at, but that he was in the country; wheiron the Jury affoilzies him; and Saxon, on of the witneffes, is proceft for perjury and *scandalum magnatum*; but he offered to verify what he had deponed. The King was difatisfyed he escaped, and Leg, Lord Dartmouth, being on of the inqueft, and having faid, the Quean mifgoverned the King and the nation by Italian counfells, he was difcourted. And it's very remarkable that fcarce a footman, now this 12 moneths, fince the King's afcent to the throne, hes turned Popifh in England, which gives them a very bad impreffion of our forwardnefs; and it scandalized them mightily that our Chancelor had avowedly turned Popifh, and yet kept his place. Yea, our minifters of Edinburgh ware difcharged to medle with applications in ther fermons; and becaufe Mr. Alexander Ramfay faid, in a preaching their, that we had fallen ftars amongs us, and yet they kept their ftation, meaning the Chancelor, and that the pillars of Church and State ware fhaking, he was filenced by the bifchops to terrify others: but he was at laft reponed again; which made fome obferve, that as, in the beginning of the Britifh reformation, the Englifh bifchops carried it on, fo the Scots bifchops oppofed it, even fo now, when we are ftuggling againft Popery, our bifchops comply to let it in, and the Englifh bifchops keep ther ground firme to hold it out.

At this tyme, dyed with us George Mauld, Earle of Panmuire, who P. 128. regrated nothing fo much as that he was leiving his eftate to his brothers, who, as he was informed, ware turned Popifh, and on death-bed he could not put it by them, but it was not true.

On the 31 of Januar, being Sunday, happened a tumult in Edinburgh, of the rabble againft the maffe preifts, who ware beginning openly to keep ther meittings. They got on of them, and caufed him, on his knees,

swear the oath of the Test, and renunce Poperie, and held a whinger at his breift till he did it. Ther was 3 killed in this quarrell: fie the particulars in my folio law manuscript, at that tyme. And for this tumult, the Chancelor caused a drummer to be shot to death, and on Keith, a fencing master, to be hanged; of which see the particulars in my law manuscript cited, in February 1686. The printing and publishing books against Poperie, was also at this tyme tacitly discharged, by prohibiting any books to be vented or sold without a licence from the Chancelor; for they observed thesse books stirred up the peeple to a jealousye and dissatisfaction against that religion which the King had embraced.

About this tyme, the Chancelor married Lady Mary Gordon, the Duke of Gordon's sister, and reli& of Urquhart of Meldrum, (for he had sent Doctor Sibbald, and Fotheringhame, a preist, to his former Lady in September last, and dealt with hir to dy Popish :) this marriage gave rise to a satyricall reflection of Middleton's, on the 2 brether, that they ware the truest brether ever he knew to ther whores, and the falsest to ther God. Another observed, Perth's armes being waves, spoke out his infetled inconstant temper.

The Papists also, at this tyme, printed a paper, bearing that the late King dyed Popish; but it was looked upon as on of the *piæ fraudes* of that Church, who thinks the advancement of ther cause hallows and consecrats the greatest lyes; for, besyde many other famous witnesses, the Lady Ogilthorp, servant to the Dutchess of Portsmouth, was in bed with him all the time of his sicknes, and declares, he dyed in the faith of the Church of England. This King, tho not so open, yet still countenances his mistrisses, (as his brother did, *si non caste saltem caute*), and hes created Mistres Sidely, Countes of Berkshire; but the Quean is so dissatisfied, that she hes obtained hir removeall over seas. The Earle of Stamford, who was pannelled before the Parliament, is liberat from the Tower upon bayll; and the Lord Gray is pardoned for his rebellion with Monmouth,

and restor'd by the King to his honors and estate; as also Stamford is pardoned and receav'd into favor.

In the end of Februar 1686, 2 of our Bischops goe up to Court, to adjust religious matters with his Majesty, viz. St. Androis and Edinburgh; and my Lord Tarbet comes home, and ather with him or after him, follows the news, that the King will have our Scots Parliament to meit for taking of the pænall laws against Poperie, and had nominate the Earle of Murray, Secretary, to be his Commiffioner theirin, that as Regent Murray had made thesse good A&ts, in 1567, so his great-grandchild should expiate the cryme by cancelling them. The King's letters also come resolving the Duke of Queanberry Hy Treasurer his place into a commiffion of 5; see them in my folio law MS. p. , and in my 8vo. MS. of Seflion occurrents at the 2d March 1686. Item, nominating the Duke of Gordon to be Captain of the Castle of Edinburgh, in Queanberie's place.

The French King's statue is erected with great magnificence, solem- P. 129. nity, and pomp, within Paris, tho himself was lying sick of a fistula in his fundament; it had many inscriptions, see infra, this page.

In March 1686, we had account that the Duke of Savoy was beginning to persecute his Protestant subjects in the wallyes of Piedmont, &c. in the same manner as the French King, and had sent for some of his troupes to assist him; wheron Geneva, and both the Protestant and Popish Cantons of Switzerland, had confederat together to oppose them.

The King emits a proclamation in England regulating the manner of preaching, conforme to some canons and instructions given by his brother in 1662, as not to medle with the abstruse points of prædestination, election, reprobation, and the consistence between God's decree and man's free will, or to limit the power of kings; or in preaching against dissentors, (this is meant of Papists) to use any bitterness or reflection; and instead of the afternoon's sermon, to use catecheticall doctrine, and the prayers, &c.;

(See Rushworth's *Historick Collections*, anno 1622, p. 64, the like injunctions.) The King also then granted his generall pardon and indemnity to all who had been with the Duke of Monmouth in rebellion, excepting officers, and a great many men and weemen named, as Titus Oats, Bethell, Fergusson, &c.; and excepting murders, rapt, and such crymes as use not to be comprehended under generall amnesties.

In the end of March 1686, the King called up Duke Hamilton, Sir George Lockhart, president of the Session, and Generall Drummond, to convince them that they must lay aside their aversion to the rescinding the penall laws against Popery: see my law MS. at that tyme. And the King, to shew his hatred at penall laws, he liberats 400 Quakers out of prisons up and down England; but the Presbyterians were not freed of the laws against them as yet.

This winter 1686, there happened 3 fyres at Edinburgh and all on the Sabbath day, to signify God's displeasure at the profanation of his day: tho there is no certain conclusion can be drawn from these providentiall accidents, for a Jew would draw just the contrary conclusion, that God was dissatisfied with our worshipping him on that day; so these providences may be variously interpreted.

Supra in margine, we see the King of France's statue erected by the Duke of Feuillade: the mottos and inscriptions thereon were vain and bombastick, as that he had restored peace to Europe, which he had deprived them of; and then there is a headlesse hydra lying with this *dicho*, '*Nec tantum Alcides potuit*;' that he has rooted out the Protestant here, which 7 Kings before him could not doe, viz. beginning at Francis the I.; then follows the emblems of his relieving the French prisoners from the Moors of Barbary and Algiers; and his triumphing over Genoa by his bombs, and forcing them to submit.

The Duke of Newburg, now Palatine of the Rhine, and popish, offering to build ane oratory for his servants' devotion in London, the Mair and

Aldermen opposed the work ; for which they were called before the King and his Counsell and severely rebuked. The Papists turn very insolent in Scotland, and publish a book called *The Papist Represented and Misrepresented*; in the one columnne they set downe what they now would have passe for the doctrine of the Romish Church as it's varnished sweetened and disguised by the Bishop of Condom, now Meaux ; and the other columnne bears what the Protestant writers alledge they maintain on that subject, which he sayes are all calumnies, and falsely affixed on the religion ; P. 130. the Tillotson and Mr. Wake, who answers this pamphlet, does prove that these are the opinions of their Popes, counsellors, doctors, and theologues, tho at present they would renounce them to cheat the Protestants. I find not only the method but very substance of this book is stolen by the priest, its author, from the act of the Generall Assembly of the Clergy of France in July last 1685 ; whereby they give in a complaint to their King of the calumnies, injuries, and reproaches which the pretended reformed load them with, both in their books and sermons. In one halfe page they set downe the doctrine of their Church ; in the other, the false opinions they say, are charged on them by the Protestant, which I have red with animadversions thereon.

Supra, page 126, we see the Popish foppery in rocking a child on Christmas ; now, we hear farther, they have another ridiculous cheat of living crab fish shewed up in laun or tiffany lying about their altar, which they give out to be the soules lately rubbed, scoured, and then refined out of Purgatory by the help of soull masses, which in the Revelation are said to ly under the altar, and to cry, ' Lord how long ? ' such as are recently delivered are so pained and benumbed yet, that they can scarce stir, after some days they recover their limbs and begin to crawl. This seemed so foolish that I could give it no belieff till I found Oldham, parson of Croyden, in his 3^d satire against the Jesuits, page 55, have an allusion to it. And this leads me to their fond severity they used on them-

selves on Good Friday, Chrif's paffion day, in whipping ther naked backs, which fome mad zealots in Rome will doe from a principle of merit, till the blood fpring again; which minds me of the preifts of Baal in Elijah's tyme who cut themfelves, and the Turkiſh Dervis doe the ſame.

In Aprill 1686, came to Edinburgh 2 charlatans with recommendations from his Majeſty (ſo that the Colledge of Phyſitians could not ſtop them,) called Doct̃or Reid and Salvator Moſcow, from Sicily; who erected ſtages, and in ther printed papers did brag of admirable-cures, as 64 blind perſons reſtored to fight who had never ſeen from ther birth, (which blaſphemie out did our Savior's reall miracles, for we read not that he cured ſo many borne blind,) with many other extravagant undertakings.

At that tyme, we had account from London, that Doct̃or Tongues' ſon had come in to the King and diſcovered that he found notes lying beſide his father, (who was on of the firſt diſcoverers of the popiſh plot with Titus Oats) wheirin he had laid doune to Oats, and taught him the wholle method of his narrative. As alſo, Miles Prince (another witneſſe in that plot) came and ſurrendered himſelfe on the King's Indemnity, and confeſſed he knew nothing anent the murder of Sir Edmondbury Godfrey, and what he had ſaid therein was falſe.

Mongatz Caſtle, wheirin the Princeſſe Ragotzi, Count Tekelie's lady was, holds out a great ſeige from the Imperiall army. The Emperor and King of Pole, by ane Embaſſie, ſtirred up the Sophi of Perſia againſt the Turk on that ſyde of Aſia, but, tho he had loſt Bagdet, &c., yet he was P. 131. unwilling to ſtir. It is a ſtrange dulneſs and want of curioſity that he is ſo long ere he get ane account of the affairs of Europe, for it was a full year after the ſiege of Vienna was raiſed ere he heard of it: They only travell in caravannes and troupes out of Turkey to Perſia for fear of robbers, and they goe but once a year.

Dolben, A. Biſhop of York, dyes in Aprill 1686, in a very unuſuall manner: he lyes lethargick 46 howers as dead, then revives, and the

small pox breaks out on him, and dyes. The vulgar talked ther ware symptoms of poison; he was old: with us we are so rash that we bury in lesse then 46 howers. He was succceeded by [Dr. Thomas Lamplugh, Bishop of Exeter, in December 1688.]

The King grants his breiff for releiff of the French Protestants fled to England by the persecution; and he gives himselfe 500 lb. sterling, and every on about the Court give very liberally, which is most commendable in our King. In regard the Duke of Brandenburg and States of Holland have not roume in ther countries for all the fugitive Protestants, they are treating with Pen, and other ouners of thesse countries of Pensylvania, Carolina, &c., to send over colonies ther; so that the purity of the Gospell decaying heir, will, in all probability, passe over to America.

The Earle of Anglesea, who, deserting the country party, had fallen in with the King, dyes at this tyme. His collection of books, on of the best in England, was sold by printed catalogue and auction; wheirof I have a copie.

IN April 1686, my 2 servants being imprisoned, and I threatned therwith, as also, that they would seize upon my papers, and search if they contained anything offensive to the party then prevailling, I was necessitat to hide this Manuscript and many others, and intermit my Historick Remarks till the Revolution in the end of 1688; after which I began some Observes of our Meiting of Estates and Parliaments held in 1690, 93, and 95, and other occurrents, forrane and domestick, breifly summed up and drawen together yeirly, (but not with such enlargements as I have used heir,) and are to be found disperst up and doune in severall manuscripts beside me, to be reviewed *cum dabit otium Deus*. (Vid. History of Convention of Estates, MS. A.)

A P P E N D I X.

APPENDIX—No. I.

SOME REMARKS ANENT MARITTIME AFFAIRS, AND SOME PROCESSES OF CAPERS BEFORE THE ADMIRALL OR LORDS OF SESSION FOR ADJUDGING OR RECLAMEING PRIZE SHIPS.¹

THE severall Proceffes about Capers, and the severall debats, interloqui- Fol. 11^a.
tors, and turnings, &c. theiranent, are of that lenth, difficulty, and fingularity, as they deserve a treatise apart, which, God willing, shall be done at conveniency. As particularly, the case betuixt Parkman and Allan, (see Mackeinzies Pleadings, pag. 120,) who, being a Suedish vessell, but loaden with some counterband goods, as tar, for France, and the returnes of counterband caried their;—the quæstion was, not anent the quality of the goods, but the quantity, whither or no that was relevant in law to make hir lawfull prize.

2^{do}. The case betuixt a Dantifzer and the Laird of Pittarro, wheir the Mafter having, throw fear and allurements, deponed that their war Dutchmen copartneris in the ship and goods, If a contrare probation might be led? so as to redarque the Masteris oath.

3^{do}. The case betuixt the Castle of Riga and Sir William Bruce. Heir the King's declaration anent the number of seamen, *per se*, was found a relevant ground in law to declare the Riga prize.

¹ From Folio Law MS. [A?], fol. 11 to 15. The above title is copied from the table of Contents at the beginning of the MS. At fol. 11 the title is simply, "OF SOME MARITTIME CASES BEFORE THE ADMIRALL AND THE LORDS."

² Caper, a privateer, one who takes a prize; also a vessel employed as a privateer.

4^{to}. The case of Hoy and Simonson against the town of Dundie; where the Lords found both parties *in bona fide*, viz. the Admiral to adjudge because of the commission granted to the Capitane, and Symonson the Hamburger, *in bona fide*, to trade to Holland with counterband, the war betwixt Denmark and us not being then declared, till a month or 2 after Symonson looted from Hamburg. The Lords found acts of hostility betwixt our King and Denmark not relevant to put strangers *in mala fide*, but only a solemn proclamation of war. Prizes that were reclaimed, as they were few, the reclamer for the most part paid from the King's and the Admirall's part, that the advocat might be layed aside. If there was any question in law anent the grounds of the adjudication, the Captain and his owner were freed of damage and interest, and, except in the case of the Lubeker and Captain Logan, I know none decreed in damage and interest.

5^o. In the case of Boigils, an Ostender, and Kinloch, burgess tickets were not regarded where their residence before the war was elsewhere, being commonly contrived by merchants to evit captures.

There were many processes and singular cases before the Admirall amongst the privateers themselves, in the War waged in 1666, in the seizure of ships where both did attack, invade, and possess, to whom the prize should belong; What rule should be kept in dividing of her, where ship and men were very small in number of guns and other force, and, if there were total loss of one of the attackers, how it should divide? Whether a Captain's paction at sea with another anent consortship, does, in law, bind the owners? with severall other onerous questions, which I intend to speak of apart, with some other observations on that kind of gain.

After that it pleased God to restore the King, in anno 1660, there fell out some questions betwixt the United Provinces and England, in points of compt and reckoning about losses sustained by the English in the East and West Indies in King James, King Charles the I., and in this King's time, and about some deeds of rapine, oppression, and murder, committed

by the Dutch on the King's subjects in these parts; wherein the Dutch feigned very willing to satisfy the King in reason, and to give up the bodies of the delinquents to the King for punishment, and were content to pay any damage and intres sustained by the King's subjects, and done by the States' special order, after mutuall reparations of that kind made by one to others; whereon papers past betwixt them, and persons were named on both sides to take notice of the mutuall clames, wherein, it's thought, the Dutch came a great length in point of reason, and whoever they contended that any injury done in these places could be no ground of a quarrell heir, when princes amongst themselves having condescended thereto, so observed ever since the discovery of America.

, privat men knew these transactions betwixt our King and them, and which of them were most in the wrong to other in point of reason, or the debates which preceded the war; whoever, it was thought England's interest to have war with Holland on any termes, (which is a wicked opinion) and their old injuries were but the pretext of it, and, to justify the way of procedor of revenging injuries done in America heir in Europe, (look't on as a novelty by the world) it was alledged, and not without reason, that wrongs may be repaired in other places than the place where the wrong is done.

In anno 1664, a War was formallie proclaimed betwixt them, wherein we in Scotland were included and drawn to be sharers of the good and Fol. 11b. ill which follows war, contrare to our interest. And, because the King of France did aid the Dutch, we were forced to proclame war against France, which was never heirtofor done by us in any King's reigne; albeit France did not speciallie denunce war to us. In consequence whereof, commiffiones were given out to privateers, to seaze on all ships or goods belonging to them or the King of Denmark, who had declared for the States. Thus, merchands being shaken, losse of trading, seamen falling in poverty, and ships rotting in the harbors, and multi-

tudes of perſones being deſtitut of all means of ſubſiſtance, many merchands and ſeamen ingadged in a trade of Caping, and did outreik ſhips to that end, and ſwarms of frigats, weill manned, went from the greateſt part of the ſea ports in Scotland in that employment; wheirin all of them did ſo weill ſucceid and thrive, that they damnified the Hollanders more then Engliſh. How far Caping is lawfull in a lawfull War, I will not determine, ſince it's generallie holden and believed as ſuch; I had no friedom for it my ſelfe, tho many gentlemen and noblemen ware not aſhamed to be ſharers in it, and got great fortunes by it. But, lawfull or no lawfull, I am ſure it was unlawfull on ſome mens part, who propoſed no other end to themſelves but gaine, and to beggar ſome honeſt fiſcher men and merchands, who ware not concerned in the War, and who wiſhed the King and his family weill. Their was a greit error committed in iſhueing out commiſſions for ſeazing promiſcuouſlie to all that fought them, without any previous triall of their courage, conduct, or diſcretion; and ſome of the Captains ware ſo barbarous and inhumane, that, to the reproach of this kingdome, they landed in ſome parts of Norroway, and robbed willages and poor boors, ſpoilled churches, took away bells, calices, and preiſts' weſts, and all ſhips they ſtopped, enemies or no, on the pretence of carieing counterband goods to the enemy; which gave ground to the Lords to cauſe reſtore verie many of the ſhips declared prize by the High Admirall and his depute, who is the only judge in the firſt inſtance to all actions for adjudication of prizes. During the tyme this War laſted, which was about 3 yeirs and a halfe, the Admirall and his deputs ware almoſt in continuall exerciſe; then all ſhips taken ware, by a ſpeciall order, appointed to be adjudged in Leith by Mr. John Stewart of Kettleſtoun, as the Duck of Lennox his depute, to whom John Cunyg-hame of Entraquen was clerk; for, before that order, ſome ware adjudged by other Admirall deputs, over whom the Hy Admirall's deputs pretend a powar of juriſdiction even to reduce decreits given by theſſe deputs.

1st Cafe. What the power of the Admirall is, and its extent, deserves to be spoke to in another place. The 1st cafe I know before them was that of Captain Ged against Orrock. Orrock and Ged having rencountred *super alto mari*, in order to a quest after prizes, did enter into a consortship to communicat losses and advantages for that voyage; and Orrock being somewhat foull, and having lost a sail, came into Sheitland to beit, and that in the dayes of the consortship. Ged, finding no advantage by this society, declared openly to Orrock in Shetland, that he would not adhere to the consortship, and that his company would not suffer him to keip it; and theiron Ged tore his part of the consortship; at which tyme Orrock alledges he told him he wold not quite him. Theirafter Ged takes a ritche prize of wines; and both meits at sea againe a ship; both runs at hir, buirds hir, and posselles hir. The question before the Admirall was, first, If 2 captains meiting at sea might enter in a consortship of that nature without consent of the ouners, outreikers of the frigate; and if that society, so contracted, could oblige the ouners. The reasones of the question for both the parts theirow, I have at lenth elswhere. The Admirall fand this contract did oblige the ouners. The 2^d question was, If Ged might, on the ground forsaide, refile fra the consortship, his ship being a better sailer and better manned nor Orrock's frigate; which the Admirall fand he Fol. 12^a. could not do without Orrock's consent. This, in my judgement, was ill decided, (tho I was for Orrock,) for a contract of society in law is not like another contract, because the trust, fidelity, and diligence of the consort is elected, and men are frie to refile when they pleas, if they be not limited to a tyme.

2^d Cafe. Was of Grot contra Broun, who both having met at sea, but without any consortship, they jointly assault a weffell, louses guns at hir, and fought; wheirin Broun lost his weffell, but his men ware safe, and by their helps the prize was seized on and possessed. The questions heir ware, 1^{mo}, Quilther their ought to be a division or no, their being no consort-

ship. 2^{do}, If the captain who first possest hir, or the captaine who by his guns made hir streick, tho with the losse of his weffell, should cary the prize. 3^{do}, If, in caise of division, the seamen ought to be regulat according to the number of guns and men, or force of the frigate; or if the division ought to be geometrick or arithmetick. 4^{do}, If the losse of the frigate that was sunk in the fight, ought to be made up in the one place, and then divide *pro reliquo*. In the 1 question, the Admirall fand, that without a consortship their ought to be a sharing amongst the captains. In the 2^d, That nather of them ought to carie hir folie, being tane by their joint endeavors. In the 3^d, That the division ought not to be equall, but with respect to the inequality of the frigatts. And to the 4^t, That consideration ought to be had of the frigate lost.

The 3^d Case was betuixt Captaine Bennett and Henrie, who having entred into a consortship for 12 dayes onlie, and Henrie having gone to land to carine his frigate, wher he staid 3 of the 12 dayes of consortship, and Bennet having tane a ritch prize on the 13 day. The quæstion was, If thesse 3 dayes Captain Henrie was not at sea ought to be counted 3 dayes of the 12; and he contended they ought to be failing dayes, and on that ground craved a share in the prize. Bennett contended that the 12 dayes ought to be counted *tempus continuum*, and not *utile*. Item, Bennet deponed, it was only to last till the 12 day of March, which eased the Admirall of the decision, for their was heir no written consortship.

A 4^t case was betuixt Captaine Seatoun and Borthuick, who both entring amongst a fleet of Dutchmen, on whom none of them durst singly hazard; Seaton falls by accident on the richest ship of the fleet; and Bothuick, who was the prettiest man, and had the best frigate, fell on some small vessells. The question was, their being no consortship, nather by word nor writ, but that which was for 6 dayes, which were expired, if their ought, in that case, to be a division. The Admirall

and Seaton was not bound to divide the prize tane by him, it being *primi occupantis*.

Their ware severall repetitions of weffells made by strangers againſt Capers, which was done before the Lords by way of reduction of the Admirall's decreits of adjudication pronounced in favours of Capers. Reason of reduction, in generall, was iniquity committed by the Admirall in adjudging their veffells prizes; and it was ſtrange, that on of 20 decrets given by the Admirall againſt strangers, ware ſuftained, but all of them ware reclaimed. It's true, the lawfullneſſe of adjudication of Dutch weffells prizes, nather was nor could be called in queſtion, they being declared enemies. But the Dutches being maſters of the hail commerce of Europe, (which, by their diligence and frugalitie, they had enhanced to themſelves,) what they could not ſafely do by themſelves, (becauſe of their war with Britan,) they did by the means of other ſtrangers, who ware their's or our allies, eſpeciallie the Suediſh and Flamands in the Netherlands, and other frie nations; and in order to this policy of trading, many wayes ware found out to evit the hazard of Capers, and yet to preſerve their commerce; as, *Primo*, they made many of their ſeamen and merchands procure burgeſſe tickets fra Oftend, and other parts in Flanders; 2^{do}, They made them ſtimulat a mutation of their domicil fra Holland to theſſe parts by a temporarie reſidence ather their, or at Stockholme, or Riga, or ſome Fol. 12^b. of thoſſe Hants tounes on the Belt. 3^{do}, They made ſimulat cockets fra this to that port, and made the bills of loadning run in allies names, wheiras they reallie belonged to themſelves. 4^{to}, They throw money purchaſſed paſſes fra the Admirall of England, vidilicet, the Duc of York ather to France or Denmark, and to returne to Holland; and by thir means and others, they caried on ſome kind of trade the time of the war, tho no part ſhort of what they had the tyme of peace. This they ſtudied, that ſince they could not friely and commodiouſlie carie on their wonted trade, they cunningly confounded the hail trade of the world, that others might

not come at the knowledge of their gaine, and by custome, fish in their waters, and eat their meat out of their mouths, and so make that misterie knownen which no man unfold but themselves.

It might seime a doubt in the entry of ther processe, whow the Lords could reduce the Hygh Admirall's decreits, he not being a judge subalterne to the Lords, but supreeme and independent from them. (It's called a Soverain Court in the Act 15 Parl. 1609.) But this quæstion was never started by any; and it seimes altogether uncontroverted that the Lords, in all civill causes, are soverain to all civil judges in Scotland, in the 2d instance. It's true the Admirall, in the 1 instance, seimes to be Soverain, so as all Marittime businesse ought to be commenced before him, as the onlie competent judge; but if ather he err or commit iniquitie, causes may be advocat fra him (their is a clause to this purpose something in the 12 Act of Parl. in 1661,) before the sentence, or after sentence may be suspendit or reduced, just as the Shireff's decreit in perambulations may be suspended, tho, by A& of Parliament, they be sole judges in the 1 instance; and sometymes decreits of Parliament are subject to the Lords' jurisdiction in some cases.

Another quæstion might have been in thir cases, If the Admirall, committing iniquity in adjudging prizes unjustly, ought to contribut for the parties dammage and intres. For it's a heavy losse to a skipper to be hindred in his woyage, and to be brought up unjustlie, and detained halfe a year neidlelie, and so losse in effect his voyage; for being brought up on a probable ground, the Capers are frie of dammage and intres; and since the Hygh Admirall is praesumed to understand best what in law is revelant to infer confiscation, if he erre, and by his ignorance bring many strangers to beggerie, it seimes just he ought suffer theirfor. This has ground, in the Civill law, L. 18, D. *de Judiciis*: *Judex male judicando litem facit suam*. But this quæstion was never moved yet, and anie dammage and intrest that the Lords, in the case of a vessell, reclaimed, was onlie against the Capitaine and ouners.

It was pittifull to ſie whow many ſeamen and ſtrangers were redacted to poverty and mad beggars, even tho they won the cauſe, by not ſetting doune ſome rules in their behalfe. It's granted, the High Admirall had no rule or example for direction in his procedure, but what his oune pate ſuggeſted him, and what he learned by the praſtiſe of forrein nations, who were better accuſtomed with this kind of trade then we; for it was reallie but a ſtranger in this country before this War. Some Caping their was in King James his minority, and Queen Marie's Regencie, when war was betuixt us, and France, and Spain; but nothing like this which began in 1664; which grew to that incredible height of advantage to the owner's outreikers, that never nation heir-tofor took richer pryzes, nor mo of them, then the Scots Capers, who became famous for their activity and cunning diligence in the trade, (a great commendation ſure.) Theirfor, it was no wonder the Admirall erred in many things, conſidering the great heat of the War, and that it was knowen the Hollanders took the forſaid fingular courſes to cary on both war and trade together; wheiras, in Scotland, we had no kind of comerce to ſpeak of; albeit in tyme we began to trace the Hollander's way of trading and warring together. It will not be beleived what wayes they took to circumveine the Admirall, and to diſappoint the grounds laid doune by the King and his allies, to drive a trade without hazard, ſo they might not correſpond with Holland nor cary contraband; and particularly, their ware articles agried on betuixt the King and the Fol. 13^a. Suedes, and a colledge of commerce eſtabliſhed in Stockholme to that effect; with whom the Dutch got favour, and made ſimulat vendition of ſhips to Sueds, that they might the more ſafely ſwear that they did not belong to Hollanders; and it's lamentable to think upon the wayes tane to æquivocat and ſwear with a reſerve, and what a weak paſſe on is redacted in law, when he hes no other ground to ſeek his oune or to retaine what is in his poſſeſſion, but an oath; which was and yet ought to be the

greatest cement of humane society imaginable. But if ever that trade come in fashion againe, (as I wish fra my heart it may never,) the Admirall and all Judges in the land will be better instructed whow to carie heirafter, both for preservation of peace amongs Capers themselves, (who ware like in every thing to go by the ears with their owners and souldiers,) and for indemnifieing of strangers, upon whose cost we have learned more marittime law and cases arising theirfrom, nor ever our prædecessors.

The rule præscriyved by the Admirall, for peace amongs the souldiers and merchands outreikers, was, that in all pryzes the King had a 10 part, and the Admirall a 15 part of the haille. This being deducted, the 3d of the rest did belong to the Captaine and his companie, and the 2 part to the owners:—whatever was found in the cabine belonged to the Captaine solelie.

In the War that happened betuixt the English and Dutch in 1672, it's weill knownen that fundry of our Capers, particularlie B. Baird, having got free ships of our allies, adjudged prize upon this sole head, that they ware carrieing cornes in to Holland; yet they sent that same very wiſtuall thither themselves; which Sir G. Lockhart said, was as much as their necks was worth, and he wondred that B. could sleip till he had a remission for it. B.'s great argument, why none of these ships should be absolved, was this, Thair is a hundred thousand pound sterling within the kingdome of unclear pryzes, and he desires gladly to know if it be the entrest of Scotland to let soe much money out of the countrie againe. But infallible the curse of God will follow such ravenous and unconscientious acquests.

The Ministers of state of Forrain princes at London, make such an allarum and clamor upon our Scots Pirats, (so they call them,) that if they get not redresse and their interests be not more tenderly considered, they threaten a war in name of their masters. Yea, it was credibly averred

by many, that a frie Suedish ship, being brought up richly loaden, and which would undoubtedly have bein absolved, B. Baird, who had a share in the Caper, caused privily convey some barrells of powder unto hir, only to be a ground of adjudication, and which was used as such : a villany so grosse, that he deserves to be thrust out of all society for it, if true, seing charity can scarce beleive on would be guilty of such wicked thift.

No. II.

ACCOMPT OF THE CONVENTION OF THE ESTATES IN
JUNE 1678, WITH THE REMARKABLE OCCURRENTS THAT
HAPPENED THEREIN.

28 May 1678. AT SECRET COUNCELL, his Majesties letter for holding ane Convention of Estates at Edinburgh, on the 26 of June nixt, was read, and proclaimed at the Mercat Croce of Edinburgh ; see the printed proclamation : as also, the double of the commission to the Duke of Lauderdale, to be his Commissioner therein, with this extraordinary clause, that he should continue in that character after the ending of the Convention, ay and while [till] he should see his Majesties face, and come in his presence. It's true, Rothes, after the Parliament was dissolved in 1663, continued Commissioner for two or three years, but it was not by vertue of any clause in his first commission. It was questioned by some whow it came to be indicted only upon 29 dayes, wheiras it was ever understood, that all summonitions to Parliaments, or Conventions of the States, used ever to run on forty dayes citation and præmonition. [Acts of Parliament should be proclaimed on 40 dayes, and till then they are not obligatory nor binding, A& 128, Parliament 1581.] It was answered, 1^a That Conventions might be, by the laws and customes, called on 20 dayes. 2^{do}. In emergencies and urging and pressing affairs, the tyme might be abridged *pro re nata ubi periculum in mora* ; and their was no statute requiring 40 dayes promulgation. 3^{do}. If their was any anticipation, it was supplied by writing particular letters, and sending them with expresses to

¹ From Folio MS. marked A. fol. 322-326.

each shire and borrow; to give them tymeous notice, which is all the intent of the 40 dayes intimation.

See what hes been Craig's opinion of Conventions of Eftates, pag. 38 of his books de Feudis. See a little touch of the power of fuch Conventions in that paper befyde me, called "Reasons why Taxations fhould be raifed, after the old way, upon the Pound Land:" it's folio 73 of the book wher it's engroft. See A& 13, Parl. 1661, wher the King hes promised to raife no more Ceffe. Item, A& 49, the fame Parliament, wher annuel-rents at 6 per cent. are declared free of all retention fees, or other burden. See reasons at large, alibi, why money, being allodiall, cannot be burdened as land is.

As for the extraordinar favors the King hes fhown to the Duke of Lauderdale, in refufing to hear all his ennemies, cloathing him in purple royall robes, making him a Duke, and partaker of his dominions, and his cheiff freind, fome think it a parallell cafe what Alexander did to Jonathan the Hy Preift, in the 1 book of the Maccabees, 10 chapter, verfe 61, et fequentibus.

In choifing the Commiffioners for fhires and borrows their was great heat and contention, and much briguing to mould them to the Duc of Lauderdale's ftamp. In fundry fhires the elections ware double, as in the Merfe, Air, Renfrew, &c. In Renfrew, 4 gentlemen made a feceffion from the reft, and choiced 2 of themfelves, viz. Colin Campbell of Blythfwood, my brother in law, and Bannatyne of Kellie; which election could not fubfift in law, becaufe, by the 113 A& of the Parliament in 1587 all fuch comiffions ought to be fealled and fubfcrived with 6, at leift, of the Barrons and Freeholders of the shire from which they are fent;—this number they will not get in Clackmannan, and fome fhires, as Cromartie; and the 272 A& Parliament 1597, requires the commiffions be granted in a full Convention of the hail Barrons, and fubfcrived by a great number of them.

It was ftarted as a quæftion, whither the late bond againft Conventicles,

that hes bred fo much disturbance, could be put to the members of the Fol. 822^b. Convention of Eftates, theirby to purge of and feclude some difaffected members; and it was thought no ty could be impofed upon them, but what was prærequired by fome law, and their was no law incapacitating the refusers of the bond from being members of Parliament. Their was, indeed, the 5^t A& of the Parliament in 1662, ordaining the Declaration to be tane by all members of Parliament, but, the A& not mentioning Conventions of Eftates, it may feeme their is no warrand in law for impofing the Declaration on the members of a Convention, fince they are *jura difparata*. Yet this A& of Parliament 1662 hes a generall in it, and custome fince hes extended it to all our Conventions; and, accordingly, the Declaration was tane by all the members of this Convention 1678.

Conventions ufe not to be riden at their fitting doune or rifings; nor the crown, fword, and other honors, brought to it. According to the indiction, the Convention fate doune on the 26 of June 1678, and the Comiffioner came to the Secret Councell chamber, wher they did meet, accompanied with 30 coaches. The prayers ware faid by Dr. Bruce, Archdeacon of St. Androis; the rolls called, and the Declaration fubfcrived, and his Majesties letter red. The Comiffioner propofed that the Houfe behooved to be firft constitute, and the controverted elections cleared and difcufed, before they could fall to any bufines; and that the eafieft and speedieft way of doing that, was for him to name a Committee to report. Firft, it was preffed, things might be done in plain Convention. This being rejected, then it was fought the Committee might be open, that every member might have acces if he pleased. It was condefcended to, that if any member had ane objection againft a comiffion, he fhould be admitted to give it in to the Committee; then the debate arofe, How, and by whom the Committee fhould be named? Duke Hamilton took the fpeech, and told, that no man payed greater refpect and deference to the Royall Praerogative then himfelfe; yet he conceived it was the privi-

ledge of Conventions and Parliaments, that they should nominat and appoint their oun Committees, and that it was done so in the Parliament 1661. The Earle of Argile answer'd, that was but a late instance. The Duke mistaking it, as if he had called it a lame instance, said, that it was the Parliament that had most largely explained his Majesties right and praeogative. St. Androis replied, it was but a lame Parliament in 1661, for it wanted the Spirituall Estate; and Parliaments since, (meaning the 1 A& in 1669,) had asserted the King's supremacy more then it; at which [the] Archbishop of Glasgow, they say, took privatly exception. The Earle of Perth, and Laird of Broomhall spoke a litle. Then the Comissioner stopped the debate, and told, Whither the nomination ware a branch of the praeogative or not, he hoped the Convention would not refuse him the power to name the members. Wheirupon the most part of them stood up, and without voting it, desired he might name the Committee, which accordingly he did, 6 bishops, 10 noblemen, 10 gentlemen, and 10 borrows, besyde the officers of state. Then the Earle of Drumfreis produced a decreet of improbation against Richard Moray of Brughton, elected Comissioner for the Stewartry of Galloway, finding a wryt to have been forged by him, in a matter betuen him and on Thomas Lennox, a glover, and declaring him infamous, and incapable to bear honor or dignity for the same, and desired to know if it was credit or interest of the Court to have such a member. The defences proponed for Brughton, are, 1^a He was only denounced fugitive for not underlying the law, which is no probation of his guilt. 2^{do}. *Eslo*, he has a remission which redintegrats his fame. Yet *Lex 3 C. de Generali Abolitione: Indulgentia quos liberat, notat, &c.* Vide supra folio 234; see more of Brughton's case, folio 324, infra. It was referred to the Comittee to be considered likewayes, who ware appointed to meet Thursday the 27 of June, both fornoon and afternoon, and on Friday the 28 in the fornoon, that they might be ready with their report against Friday, in the afternoon.

At which time the 2d meeting of the Convention was kept, but fate very short while; on this pretence, that the affair was not fully digested nor ripened by the Committee, for a report. But the true cause was, the two Dukes were capitulating, to see if they could be drawn to an understanding, to go on in a joint course; whereon it was adjourned to Saturday the 29 of June, in the afternoon, which was thought a very unusual time.

The report of the town was, that the Commissioner had, to ensure the Fol. 323^a. Borrowers to himselfe, promised their should be no retention of the annuall-rents. Many were of the opinion, that it exceeded the limits of the Convention's power to retain, since, by the 49 A^ct, Parliament 1661, annualls being reduced to 6 per cent, it's declared they shall be free of all retention, or other public burden. Now, this being security given by a Parliament, it could not be infringed nor altered by any thing lesse then a Parliament. It was rumored, tho they did it not by way of retention, yet they might do it by taxing and assessing money, and the personall estates, and for discovery thereof, cause the persons depone, as was practised by the A^ct of the Taxation in 1633. But this burden of retention, or cessing personall estates, is a most unequal grievance; for lands pay according to their valued rents; now, the valuations are oftymes a 3^d within the true rent; wheiras money *valet seipsum*, and the full extent of its interest and annuall-rent is known to be 6 for each hundred, and the creditor nather gets, nor may take any more; so that retention of one of 6 from a monied man, is the 6^t part of his full rent; wheiras the tax on landed men will feldom be the 16 part of their real true rent, which is concealed and not known by the valuations; and the true proportion of retention of annuall-rents for adjusting it with the cess on land rent, and making an equality in the burden, is, that the annualls for a yeir be only 5 and a halfe per cent., and the other halfe be retained or payed in to the publick; which answers as if the annualls were at 12 in the hundred, and one of that 12 were payed. Besydes, it were a greivous burden to make retention, which mainly falls

on the borrows in whoffe hands the greateft part of the money is, (their eftates confifting in money) and to pay the 6^t part of the taxation as to the totall over and above, which is moft unæquall.

It's contended by fome, that the clerks of Secret Councell are the only clerks to Conventions of the Eftates; becaufe the a^cts of Convention have alwayes been in ufe to be recorded in the register books of the Secret Councell; and James Primrofe, when clerk to the Secret Councell, did officiat as clerk to the Conventions. Yet Sir Archbald Primrofe, clerk of Register, in the two Conventions held in 1665 and 1667, caufed Mr. Thomas Young (who was nather a clerk of Seffion nor [of] Secret Councell) exerce as clerk. In this Convention Mr. Alexander Gibfone performed the office; but whither as on of the clerks of Seffion, or on of the clerks of Secret Councell, was not drawn under quæftion.

To returne, then, to the meeting held on the 29 of June. The Commiffioner told, the Committee had prepared a report of their tryall and examination they had made of the comiffions quæftioned, and defired the report might be red. Duke Hamilton told, their ware fundry perfones, members of the Convention, concerning whoffe comiffions ther was no doubt, yet their ware legall and relevant objections againft themfelves, why they could not fitt their; and he judged it the moft proper and rationall method, to difcuffe theffe objections before the meeting fhould take in the Committee's report of their judgment and opinion of the controverted comiffions. The rumor was, that Duke Hamilton meant fome of them that ware upon the Committee, as the Prefident, who albeit he was choicen on of the Commiffioners for the fhire of Galloway, yet he had not a 40 fhilling land holden of the King, lying within that fhire; and they prevailed with the Lord Blantyre to goe doune to the Abbey and give in this objection to the Committee. They fay the Prefident took it of, by producing charters and feafines of lands their, of a value far above that. Fol. 323^b. Some thought Duke Hamilton alfo aimed at the King's Advocat, of

whoffe letters they had, written during the tyme of the late fhifme between the Bench and Bar, founding litle from treason, and reflecting not only on the Judicatories, but on the King's conduct ; only their was ane amnefty for all theffe boutades, and the King had advanced him fince to be his advocat. The Commiffioner contradicted this motion of Duke Hamilton's, and told, It was the more naturall way to take in the Committee's report firft, and if, theyrafter, they had any farder objections to make, they fhould be heard. So they proceeded to the report. The firft article of it was anent the election of the Laird of Philiphauch for Forres, wheirof he was Shireff, which election the Committee conceaved was legall and orderly made, notwithstanding the objections made againft it, which ware, the great præcipation and haft with which it was hurried throw, the gentlemen not having had fufficient advertifhment for being prefent. Theirfor, the Earle of Tuedale, who appeared vehemently againft this election, craved the fhire might be ordained to elect of new, and he alledged the proclamation at Selkirk for their meeting was but ane hower before they met and elected. Answered, their was competent eneugh tyme given, and the proclamation was not *de effentiali*, and their was letters writ to all the heritors ; and fuch as came not, their answers, containing excufes, ware come before they proceeded to meet ; fo they had as much tyme as to have been prefent themfelves, if they had pleased, and the gentry ware frequently eneugh convened, and the informalities objected ware not of moment. Then it was put to the vote, Approve of the Committee's report as to the election of Forres, or Not ; and Approve carried it, upwards of 50 or 60 votes ; which was the ods wheirin the Duc of Lauderdale and his party was fuperior to Duke Hamilton's, all alongft, in the Convention, in the following votes ; for the moft that fyded with Duke Hamilton ware about 39 in number, and about 100 went with the Commiffioner. With Duke Hamilton ware the Earles of Buchan, Dumfreis, Perth, Roxbrugh, Southesk ; among the Bifchops not on ; the Lords Bargeny, Blantyre, &c., Androw

Fletcher of Salton and Adam Cockburn of Ormiston, the two Commissioners for East Lothian, Generall Major Drummond for Perth, Blackbarronie for Tuedaleshire, Cromvel Lockhart of Lee, and Hamilton of Silvertonhill for Cliddisdale, with sundry other barrons. Duke Hamilton had only 3 of the burrows joyned with him; Patrick Hay for Perth, John Anderfone for Dumferling, and Sir Alexander Bruce of Broomhall for Culros. In the voting, the Earle of Mar rose up, and offered to prove that the Earle of Buchan had no priviledge to sit and vote their, because he was not yet full 21. Buchan answered in a passion, that upon his honor he was major, wheiron he was permitted to vote. Yet, nixt day, Mar produced a testificate, bearing the tyme of Buchan's age, by comparing wheirof it appeared he was not yet 21. But this afforded only matter of laughter. The Lord Blantyre, finding himselfe omitted to be called on in the rolls, he craved he might be called, which was done. Broomhall being passed by, he told the Chancellor that it was promised to him, that, during the dependence of the discuffing of his commission, he should have liberty to Fol. 324^a. vote (which was not granted to the other controverted commissions). The Commissioner desired by all means that Sir Alexander Bruce's vote might be received. Then Bromhall cryed in a very rude way, "My vote is No! viz. I disapprove." The Commissioner answered in a great passion, "Weel then, fir, your No! does not præponder; but I pray you, my Lord Register, mark heirafter that Sir Alexander's vote be not forgot to be asked, but wryt doune his name in capitall letters." Some ware for reading the haille report over, and then by on vote have approven it, which would have made short work, and hudled up all; but the Commissioner was content to give them so much fair play, as to allow them to reason and debate every controverted election apart.

The 2d controverted election determined by the Report of the Committee, was anent the election in Perth shire; as to Generall Major Drummond, their was no quæstion; but as to the other, their was double

elections, viz. Grahame of Fintrey and Morray of Strowan. Grahame of Fintrey had been choicen at the Michaelmas head Court, 1677. When the proclamation for the Convention is, the gentry mets again and choiced Morray of Strowan. The Committee's opinion as to Strowan was, that his election was illegall and null, their being no vacancy; and because, by the proclamation calling the Convention, their ware no shires permitted to meet and elect, but only such as had made no election at the Michaelmas preceeding; and so when they met and choiced Strowan, it was without a warrand. It was answered, at the Michaelmas, when they choiced Fintrey, they had no prospe& nor forfight of a Convention, and at that tyme they thought Fintry capable; but since, being informed of his condition, that he is not heritor of a fur of land within the shire, but that all was appryfed, and gone from him, and he was a meer bankrupt, and who refuged in the Abbey; they being sensible of their mistake, and that such a man was no more capable to represent them theirfor; they met and elected of new; and the proclamation hindred them not, unlesse their Michaelmas election had been of a person capable, which was not; and so they conceived it to be a null election. Alledged, Fintrey was as capable now, as he had been for 7 years before. The vote of the Convention found Strowan's election unwarrantable and illegall.

The 3d controverted election was Richard Murray of Brughton's, for the Stewartry of Galloway. The Earle of Dumfreis produced a decifion of the Lords of Session, wheirby they repelled John Fraser, wryter, from being a witnesse in a civill action betuixt tuo parties, (of which see a remark made by me, supra folio 314, num. 702,) because he had been de-
 Fol. 324^b. clared infamous for bigamy; and that, notwithstanding he had the King's remission for the said cryme. And if Brughton could not be receaved a witnesse, notwithstanding of the King's remission, *ergo* much lesse he could not be a member of the Convention. It was answered by the President and King's Advocat, that in civill actions, especially wheir their was not

penuria testium, the Lords were tender to receive persons on whom their had once been a stain. That the falsehood contained in the sentence against Brughton, was but a childish kind of a slip in the execution of a horning, and wherein scarce any advantage redounded to Brughton, and so it was not presumable he had done it *ex proposito et animo falsum committendi*, but of perfect ignorance. That the King might make use of such persons notwithstanding, and that there was a difference betwixt the being a witness, and being a member of a Convention. This was a point of the publick government of the kingdom, wherein dispensation might be made; that his remission was not in the common forme, but restored him as fully and intirely to his fame, dignity, and honor, and to all his capacities, as he enjoyed the same before the said sentence of falsehood, as if it had never been given nor pronounced; and discharged any under the paine of death to object the said crime to him. General Major Drummond, that he might be the better hard, stood up upon the furme, and alledged, that he pretended not to be a lawyer, and so knew not what these words might import, beyond the exuberance of style, which uses sometimes to be enlarged, and yet, without these clauses, the remission be ample enough as to all the designs his Majesty has before him, which is only sparing their life and fortune. Only he behooved to say this much, that abroad, in all the places where he had been, no gentleman would admit a person guilty of such villanies into his company; and that it was a part of his Majesties royall clemency, that his ears were not cropt, and the halfe of his estate seized on. Dumfreis urged, the learned judges of the law might give him a reason why he might sit there, and yet not be a witness. Duke Hamilton contended the remission was but an extension of style. The Commissioner put on a great seeming huff against Drummond, as if he would have controverted the efficacy, validity, and extent of his Majesties grace and remission; and told he would gladly see the man that would affirm the King could not rehabilitate,

to the effect of rendering them capable of brooking the same honors and dignities they could have done before; and if any denied his Majesties praerogative royall in that particular, he would acquaint his master theirwith. The vote was, whither Brughton's remission capacitated him to be a member of the Convention or not? and the Commiffioner's boast did so overaw the members that not a man voted in the negative. Thus he got his legality declared by a vote of the Convention, as Sir William Purves had got his honesty asserted by ane A& of Parliament. Many admired why the Duke of Lauderdale and the President concerned themselves so passionatly in this man, since they would have had a great deall more credit in letting him slip; and it had been [more] for Brughton's oun advantage to have done so, then to have

Fol. 325^a. suffered his name to have tossed, and that odious cryme to have been ript up as it was. Some expected he should have appealed Drummond for his discourse; but he was more wise then stout.

The 4^t controverted election was that of the Merse or Berwickshire,² betuixt Sir Patrick Home of Polwart and Sir Roger Hog, Lord Harcours. Polwart craved, since he had to doe with a lawyer, that his councell at law might be heard to plead for him. This desire was called a novelty. Duke Hamilton told it was a mistake; for, in the Parl. 1661, he instanced a case in a controverted election in the shire of Nithisdale, wheir the Parliament allowed advocats to plead. Some controverted if any such thing could be made appear from the Registers. Duke Hamilton told, he knew not what they insert in the Registers; but sure he was it ought to have been marked, if it was not. Harcours, in the heat of the debate, not with that respect that was fit, contradicted Duke Hamilton, and cryed to him, "There was

² In the margin, the Author adds, "Vide supra of this Merse election folio 323, in margine 2dae paginae." This refers to the paragraph which is inserted, at page 276, as part of the text.

no such thing." This was put to the vote and refused. Then Polwart desired he might be heard himselfe, and, because his voice was low and he was at a distance, he was desired to come neir the throne; which he did, and alledged, that tho he had only 20 subscriptions to his election and Harcours had 39, yet his was the more valid in law, because he offered him to prove that 25 of thesse who voted and signed for Harcours, ware ather not infest, or had not a full 40 shilling land, or ware denuded by compryings, or the gift of their life-rent escheat, &c. Harcours and the President answered, that, *esto*, this was true (as it was denied), yet the Convention was not the court, *in prima instantia*, to try such objections, but the Shireff Court was the only proper and competent judicator wheir they ware to have been objected against the fundry heritors, the time of their voting; and if the Shireff or his Depute had ather unjustly repelled them, or, without any notice or regard theiirto, had allowed them to vote, then the Convention, upon a representation made to them, ware judges of the objections. But, since Polwart had only in the Sheriff Court, the time of the voting and electing, protested against thesse feuars as incapable, and had not craved the judgement of the Shireff and the Court upon the relevancy of the objections he gave in against them, as he should have done, he cannot now quarrell that election upon any such pretence, else all the Barrons of Scotland shall be forced to bring in their charters and evidents to Edinburgh to the Convention; and the Convention shall never fall to their bufineffe, but shall consume their haille tyme in perusing men's evidents. Argyle added, by this rule they might force the Nobility to produce their patents of honor ere they voted. The Commissioner cryed, "When shall we show our zeall for his Majestie's service! when shall we fall to the work for which we met! shall we spend all our tyme in constituting the Court? Let it not be said that it shall be in the power of some few men to delay and hinder so good and so loyall ane intention."

Then a vote determined Polwart's election void, (as the Committee had found,) since he had not discusst his objections in the Shireff Court.

Fol. 323^b. [The election of the Merse³ was likewayes controverted betwen Polwart and my Lord Harcous. Objected against Harcous commiffion, that many of the voters and subfcryvers to it ware but petty fewars, and had not a 40 shilling land holden of the King; and which was objected against them at the tyme, and is now offered to be proven. Answered, seing it was not proven before the Barons in ther meeting, the tyme of the election, Harcous commiffion, who is now chofen, cannot be quarrelled theiron, and it's not tyme to prove it now. Replyed, they could not be ready to instru& it their, not knowing thesse unfree persons would præsume to vote, and they could not carry along with them all the Retours of the shire, and, wher a Barrony is difmembred and divided to fundrie heritors, without proportioning and retouring each part this was impossible. Yet the Convention fand the said commiffion could not be quarrelled on that head now; which was very hard.

The King, by a contra& in 1633 (see the unprinted A&s) betuen him and the Earle of Sutherland, because of the paucity of freeholders of the King in that shire, allowed the Earle's oune wassalls to elect and be elected; and so Gordonston and Rorat, though not the King's wassall, ware sent. The King's Advocat then alledged, that it had been decided that a nobleman's eldest sone and appearand air, though he have a 40thilling land in the shire, yet he cannot be choisen, because he is of the Estate of the nobility, and not of the small barrons, and on man, by the A& of Parl. cited in f. 325 *in fine*, in Mr. George Dickson's case, cannot be of 2 Estates.]

Fol. 325^b. The 5^t controverted election was of on Thomas Urquhart from Crom-

³ This and the following paragraph were added by the Author on the margin of the MS. at fol. 323^b.

arty. The comiffion being red, was found fo ridiculous, that it was rejected without a vote.

By this tyme it was neir 9 at night, they having fit more then 4 howers. The Comiffioner told, their refted fome few more controverted elections; but he would refer them, being now late, to another dyet, which was Tuesday the 2^d of July 1678. And in regard their had been a great throng on the 29, a ftri& order was ifhued out, that none but members fhould adventure in heirafter, the rounge being ftrait.

Yet, on the 2^d of July, (which was the 4^t meeting), Henry Fletcher, brother to Salton on of the Comiffioners, having got in, was obferved, and fent to the Tolbooth, and fined in 20 dollars; wheiron Salton, the meeting theirafter, pitched on litle William Talmush as no member, fo that the Comiffioner was forced to ounne him as on of his fervants, whom he had priviledge to bring in. This day they fell on the controverted election of Air, and by the report of the Committee, the election of Sir John Cochrane, and Sir John Cunyghame advocat, was found null on this fubtilty, that by the 272 A& [of] Parliament, 15 James 6, in 1597, the barons' commiffions ought to be fubfcryved by the Clerk of the Convention which theirs was not, tho ther was three tymes moe heritors fubfcrived ther commiffion then the others, wheiras the Prefident's and the Laird of Blair's was fo fubfcryved. It was answered, 1^o That a& was then made when fcarce any of the barons could fubfcrive for themfelves, which reafon now ceafes. 2^{do}. It was utterly in defuetude; and if they would examine ather the commiffions to this Convention, or any of the preceeding Conventions or Parliaments, theffe 40 years bygane, they would not find on of 20 of them who obferved that formality. However, the Convention voted their commiffion null for want of it, though the commiffions of many of their ounne fa&ion, *eodem laborabant vitio*; but this fpoke their partiality.

The nixt commiffion was that of Mr. George Dickfone of Boutchrigs,

for the Brugh of New Galloway, which first the Convention of Borrows, and then the Convention of Estates, repelled and rejected, on this ground, that he was elected against the King's letter, and the acts of the Convention of Borrows, declaring their should be none choicen to represent borrows but merchands within that brugh, actual traffiquers and residents, bearing scott and lot with the rest of the citizens, which did not agree to him. And farther, the King's Advocat and President urged against him the 33 A& of the Parliament in 1587, discharging that their be any confusion of the persons of the 3 Estates; and that every man shall only occupy the place of that selfe Estate, wheirin he commonly professed himselfe to live, and wheirof he took his stile. Now, Mr. George professed himselfe commonly among the barons, and not the burgeses. His answer was, in this capacitie he owned himselfe as a burges of New Gallo-

Fol. 326^a. way. [Vide supra a note as to this folio 323^a in *margin et ipso fine*.] They voted his commission null. They could not reach Broomhall's commission from Culros; for by receipts of stent, and other documents, he instructed he had trade their, and boor his proportionall share of all burdens with the other inhabitants.

Thus ware all the commissions adjusted and discussed, as the Duke of Lauderdale pleased to order them.

The 5^t meeting was on the 4^t of Jully, wheir his Majesty's letter (the Court now being constitute,) was read, and the Commissioner delivered of his harangue; both which see in print. The same Committee which was formerly named are desired to prepare the draught of the A& anent the Supply, against the 8^t of Jully; being Moonday, which they doe, and carries 25 moneths cesse for 5 years, 5 moneths each year, at 6000 £ sterling per moneth: most ware expecting but 20 moneths. This, at the 6^t meeting, on the 8^t, was brought in, voted, and carried, some being only for 20 moneths. The matter of the next meeting was the method and way of imposing it; by taxation, poll-money, or assessment of land rent,

according to their severall valuations. The last way of assessment carried it. Argyle, Duke Hamilton, and many were for pol-money, that the tenantry might have payed a part of it. Some would gladly have understood the Clergie their proportion of this subsidy, in regard they alwayes boasted, and made the countrie believe that, in the taxations, and other publick burdens imposed upon the country, they alwayes payed their proportionall share for their rents and benefices possessed by them. And yet I heard knowing men aver, this was a meer blind, and the countrie had no ease nor releiff by any payment they made; nor ever would till they told and undertook so definit part as the burrows did, who payed the fixt of all that was imposed. Sir George Mackenzie of Tarbet, and Sir George Gordon of Haddow, appeared very zealously for the Commissioner's interest throw out all this Convention; but was thought a remarkable change of the lubricity and inconstancie of humane affairs.

The last meeting, on the 11 of July, did only approve the draught of the Convention's letter to his Majesty, sent up and carried by the Laird of Lundy. But, because both this Letter, the A& of the Convention, and many of the other papers mentioned by me, are in print, theirfor I forbear to repeat the contents their of. Vide the next page.

Thus ended this Convention of Estates, wheirin the Duke of Lauderdale conceived he had recovered any thing he lost in the Parliament 1673; and he triumphed mightilie in his succeffe, and Whythall was made to refund with it, and the service he had done to his Majesty by this subsidy, and in casting England a copie, and in shewing the malecontents their how impotent their faction was in Scotland, and not to be trusted Fol. 32^b. to. Duke Hamilton went away from the penult meeting in a passion; yet it cannot be denied but the Duke of Hamilton all alongs behaved himselfe very weell, and showed much acutenesse and readines of wit in his reasonings, and very prudently did take the advantadge to retort his adversaries' arguments against themselves.

Halton, to make his sone, Mr. Richard Maitland, capable of being elected on of the Comissioners for the shire of Mid Lothian to this Convention, he disponed to him 14 chalders of victuall, with this quality, that it should be lawfull for the disponer to alter it at his pleasure, or to alienat the saids lands without his sone's consent, which was a rare clause.

In the Letter sent by the Convention to the King, some blamed that expreffion as mean, wher they say they will not pry unto forraine mysteries; and then, wher they flatter the Duke of Lauderdale; and then, within 4 lines of the end, wher they compare the King to God, because both of them never makes use of their power, but to doe good; which some thought, if properly tane, wanted not much of blasphemy. Again, wher Sir George Mackenzie sayes, (for he and the Bischop of Galloway, Mr. John Paterfon, is thought to be the penman of it,) that from God alone our King derives his power. 1^o Some denies that. 2^{do}. Does not other princes derive their lawfull authority from the same fountain as much as he? 3th. This hinders not but the people are God's instrument in conveying the said power, wher it comes not by conquest and immemoriall defchent. Wher no compact can be showen, *queritur* if it is to be presumed?

No. III.

THE DEBATE IN THE CRIMINALL ACTION PERSHUED BE HIS MATIES ADVOCAT AGAINST VMQUHILL MR. JAMES MITCHELL, FOR ATTEMPTING TO KILL THE ARCHBISHOP OF ST. ANDREWS, EXTRACTED AS THE SAID DISPUTE STANDS RECORDED IN THE BOOKES OF ADJOURNALL, 7TH, 8TH, AND 9TH DAYES OF JANUARIE 1678.¹

DEFENCES.—The lybell or indytement haveing been read, Mr. Johne Eleis, for the pannell, alledged, That he cannot passe to the knowledge of ane assyse, and that conclufione, that the pannell hes committed murder, cannot be inferred from the subsumption of the lybell; becaufe, be the lawes of this Kingdome, the Civill law, the common opinion of the Doctors, the law and generall custome of all nations, *Nudus conatus et affectus sine effectu*, even in the most attrocious crymes, except treafone, parracide, and other excepted crymes, is not punisheable be death; and it wer against all reasone, fieng punishment ought to be proportioned to the crymes, that a naked and fimple designe of murder should be punished as murder that had taken effect; *et in criminibus gravioribus et gravissimis, viz. adulterium, furtum, sodomia*, the naked designe is not punished *pœna ordinaria*, even by the civill law; and tho *Lex Cornelia de sicariis*, by ane extraordinarie streache, does declare one liable, *si quis cum telo ambulaverit*,

¹ From Lord Fountainhall's Manuscript marked C., p. 53.

yet it is but a statutorie law, and derogat to, by the law of nations, and the speciall law of our nation, in so farre as murder in our law is defyned to be, and hes only place *in interfectis per feloniam*, and these who wer killed upon forethought felonie. 2^{do}, In so farre as the lybell concludes him guiltie of affassinatione, the same is no wayes relevant, it being both a terme and a cryme unknowen in our law; and be the Lawes and A&ts of Parliament of this nation, the subjects of Scotland are to be governed by the lawes of Scotland; and though the cryme of affassinatione wer a poynt of dittay by our law, as it is not, yet it is not nor cannot be pretended that he wes hyred for that effect, neyther is it lybelled. In sua farre as the lybell concludes the pain of death for mutilatione of the Bishop of Orkney, it is answered, The same is no wayes relevant, and the said conclusion cannot be inferred from the subsumption; because the A& of Parliament does only declare dismembratione to be punished as slaughter. 2^{do}, The said A& declares dismembratione to be only punished as slaughter, when it proceeds upon forethought felonie. 3^o, The said A& requyres another qualificatione, viz. that it be pershued be the partie, non of which can be subsumed upon in this case, because it is not lybelled that the Bishop wes dismembred, or had his hand cutt off, but only had a wound in the hand; and the lybell does expresse beare that the Bishop of Orkney gott the shott in the hand accidentally, when the designe wes against the Bishop of St. Andrews, and so wes not upon forethought felonie as to him; and lastlie, the Bishop's nearest of kin doe not concurre nor pershue, which is a speciall requisite in the said A& of Parliament. Likeas, the said A& is exolet, and in no Register can it be made appeare, that any person wes capitallie punished for dismembratione, but, upon the contrare, many accused and condemned in arbitrarie punishments; so that the lybell is no wayes relevant as to that article, for the reasones foresaid, specially sieng dismembratione is not so much heirin as lybelled or pretended; and wheras it is insinuat that the Bishop did languish and die of

the said wound, it is answered, That the lybell is no wayes relevantly conceived, becaus it is not lybelled that the wound wes *ex sua natura*, lethall or mortall, and it is offered to be proven that the Bishop did live severall yeirs thereafter, did goe about his ordinarie function as a Bishop by preaching, which is a sufficient ground of exculpatione and defence.

In sua farre as the lybell is founded vpon the A& of Parliament anent invadeing of Councillers; it is answered, this present case does not fall under the compas of the A& of Parliament, becaus it is not lybelled that the cause of the said pretended invasion of the Archbishop wes upon the accompt he wes in the prosecutione of his Majesties service, but upon the contrare, it may appeare strange to any rational man, *Quorsum et cui bono* he could have done it.

As to the A&s anent invadeing of Ministers, they import no capitall punishment, but only confiscatione of moveables, and as to which the saids A&s are opposed, and as to the A& 1670, it is posterior to the fact lybelled.

In sua farre as the lybell seemes to be founded on a confession, in sua farre as the confession may be made use of as a sole or conjunct probatione, the pannell objects against the famen upon the grounds and reasons following. 1^o, If any such confession wes emitted be the pannell, which he hes absolutly denied in the Lords oun presence, nowayes acknowledging the famen, no respect can be had therto, and it is not probatorie, becaus the famen is extrajudiciall, *et extra bancum*, in regarde it is not made in presence of the assyse, who are judges to the probatione, which is expressly required by the 90 A& xj. Par. K. J. 6, which requyres the probatione to be led in presence of the assyse and partie; and which A& of Parliament wes not only made for securitie of pannells as to a just and legall procedour against them, but also that the assysers to whom the trust of the lyves of the subjects of this Kingdome is committed, as to the poynt of probatione might not proceed upon fame and report, but upon

a cleare probatione before them; so that if that wer not, the assyse wold be altogether depryved to know how the confession wes emitted, if spontaneously or *ex constantia, vel trepidatione*, or *spe veniæ*; and the use that ever wes sustained in this Court wes, that the assyse did find a partie guiltie on a confession emitted before a quorum of the Justices in a fenced Court: *Efto*, the said pretended confession should be sustained probative, for the reasons above represented, as the pannell, with all submission to your Lordship's justice, humbly conceaves it cannot; yet, if any such confession wes, it is null, becaus it wes elicit *spe veniæ et immunitatis*; and for proving therof, the pannell does repeat his exculpatione, which he conceaves is relevant in law, and craves the witnesses therin to be examined upon the contents therin. 2^{do}, The said confession being emitted, *extra judicium et spe veniæ*, as said is, *est in se nulla*, and cannot be confirmed nor validat by the testimonie of anie witnesses whatsomever; and to evidence that the pannell's lyfe wes never intended to be taken upon the said pretended confession, the samen, if any wes, is opposed, by which it evidently appeares, that he wes examined upon oathe, as to the most materiall part of the cryme, viz. his complices, which makes it more then evident, that it being *in materia criminali et capitali*, in which oathes cannot be taken by law, renders the confession null and invalid, at least makes it evident that the lybell hes been restricted *ad civiles effectus*.

REPLY.—MY LORD ADVOCAT insists, in the first place, upon the 4 A&, 16th Parliament, James 6th, by which *nudus conatus*, attempting and invadeing, tho nothing follow, is found relevant to inferre the pain of death. But so it is, that the said Mr. James Mitchell did attempt the killing of the Bishop of St. Andrews, which attempt *devenit ad actum proximum*, the said Mr. James haveing done all that wes in his power; and as to the qualitie adjected in the A& insinuateing the defence that it must be proven that it wes for doeing of his Majesty's service, it is replied, That this qualitie is inferred, and cannot nor requyres to be urtherwayes proven

then by a presumed inference. For the designe of the attempter being ane act of the mynd and the secret of the heart, it cannot be urtherwayes proven, but simplie be the attempting a Secret Councillor, or ane of his Majetie's officers, against whom the pannell could have no quarrell, but for doeing of his dewtie; and therfor the law still concludes the same, except the pannell will offer to condescend upon another relevant reasone, viz. ane privat feade; for if it wer urtherwayes, the A& wold be absolutely uselesse, since any person might attempt or kill a Privie Councillor, it being impossible to prove what wes the designe, and this A& wes designed meerly to make all attempts against Privie Councillors punisheable by death; for otherwayes it could be no fence nor protection to Privie Councillors, if it wer only granted to them under a qualitie which wer impossible to be proven; nor can this seem hard, since the subjects have only themselves to blame who attempt against the lyves of Privie Councillors, and it wer very ridiculous to thinke that if the brother of a pannell should kill the Judge or King's Advocat, immediatly after proces, that it wer necessar to prove the designe otherwayes then by the naturall contingencie which obvioullie aryses from the qualities and circumstances of the perpetratione; but in this case, as Mr. Mitchell is a persone who can condescend upon no privie offence betwixt the said Archbishop and him, they being absolute strangers to on another; so, belyde the presumption of law above specified, it is offered in fortificatione of the A&, that the said Mr. James ownes himselfe to be of a professione who hates and execrats that hierarchie, and of which sect the unhallowed penmen of Nepthali declare it is lawfull to kill thesse of that character. 2^{do}, It is not-tour, and offered to be proven, that Mr. James himselfe defended that it wes lawfull to kill such, and endeavoured by wrested places of Scripture to defend himselfe, to gain profelytes therby; and if need wer, as there is non, it is specifickly and distyn&ly offered to be proven, that he acknowledged the reasone why he shott att the Archbishop wes, becaus he

thought him a persecuter of these nefarious and execrable rebels who appeared at Pentland Hills, nor can designs and acts of the mynd be otherways proven, then by such emitted declarationes, argueings, and acknowledgements.

Likeas, in the heall course of our law, the invadeing and attempting any of that sacred function, is still declared æquivalent to killing, and tho the last A& be posterior, still it is sufficient to demonstrate and declare the mynd of the Parliament anent such attempts. 2^{do}, By the Common Law, *conatus* and endeavours *in criminibus atrocissimis* are punishable by death. *ubi reus devenit ad actum proximum et omne quod in se erat fecit*, which is in itself most reasonable, since the atrocitie of the cryme should put the same even beyond an attempt, and there can be nothing more just then that the extraordinariness of a cryme, should have an extraordinarie atrocitie; and guilt attempted in atrocious crimes, such as sacriligious assassination is in the eye of the law alse great, and greater then the stealing of a horse or cow, specially where securitie from the effect proceeded from no innocence in the committer, who did all that he could, but from the special providence of God, disappointing the effect of a cause he so much hated; and Carpzovius requyres only 3 qualificationes to make endeavours punishable by death. 1^{mo}, *Quod eventum erat ad actum morti proximum*. 2^{do}, *Quod non steterit per assassinum quin consummaretur delictum*. 3^o, *Quod occidendus fortuito casu capturam evaserit*: all which concur but too weell heir, and that *in omnibus criminibus atrocissimis, conatus* is punishable is clear from Gothofred, *vt de conatu* from Cavorannus, and particularlie in the case of assassination, *totidem verbis assassinus tamen nihil prodesse debet solusque conatus capite puniendus*: a great instance wherof is given in a decision by Gothofred in the Senate of Savoy, wher deathe wes inflicted upon a person who but struck with a batton. And wheras, it is pretended that assassination is no cryme in our law, and that it is only inferred where the designe of murder proceeds from the committer's takeing money; it

is answered, That that part of the defence is most groundlesse, and our nation will be more barbarous then the Laplands and Tartars, if the lyeing in wait with a constant designe to kill clandestinely, *per infidias*, any person who had never offended, should not be raised to a higher degree of detestatione then ordinarie murder; for tho the law does not alwayes punish a meer endeavour when designed such who lesse offended wher nature pleadeth some excuse from the greatnes of passion and recentment, or wher the party gaines some occasion by doing the wrong when the suddennes of the designe allowed of no tyme to consider or repent; yet when a person, after mature deliberatione, ripens his own villany, and resists the motions of reason and inspiratione of Almightye God, by lyeing in wait to kill a person who never offended, the law thinks the Commonwealth can never be secured so longe as such a viper is alyve, who wanted nothinge but opportunity to kill mankinde on by on; and the specialitie of takeing money, is only demonstrative and not restricitive, since the guilt in this and such lyke cases is greater and much more dangerous then that of takeing money, for he who takes money will not kill but in darknes, and wher he may escape; but the sunne, and the croce, and the confluence of the world cannot secure against murder, wher the partie thinks the act merits Heaven, or att least wher he thinks that thesse of his perswasione will ryse in a tumult in the streets for his defence; lykeas the law has inferred death *ob conatum* in the case of *raptus*, robberie, much more should it inferre death in this unparalleled and execrable crime.

And as to what is alledged against the Act of invadeing of Ministers, it is answered, That the first Act appoynts that it shall be punished with all rigour: and the 7th Act Charles I. and the last Act is sufficient, tho posterior to the crime, to declare what was the meaneing of that generall, viz. punished with all rigour; and since our law makes the attempting of such as are doing his Majesty service capitall, that generall ought to be extended to death, since lesser crimes and other crimes are for the same

reasone punishable with death; nor can ther be any hazard in this, since ther is a law for the future, and no man shall ever die for so greate a cryme in our nation.

Wheiras it is alledged, That heir the pannell only did confesse upon hopes of lyfe; it is replied, 1^o, A promise of lyfe from a Judge who could not grant the same cannot defend, especially wher no threatning preceeded, and wher it is cleare that what wes confessed, wes founded on uther presumptions *et indicia*; nor is this relevant except the pannell could offer to prove first threatneing to the fear wherof he yeelded. 2^{do}, That he expresse pactioned that his confession should not operat against him, which is verie cleare from Boffius *tit. de Confess. per tortur. num. 12*, wher he states the case, and concludes that a spontaneous confessionne, tho lyfe wer promised, does not defend; and is the guilt the lesse that a Judge promises, and if this wer sufficient, everie Judge might make himselfe a Kinge, and grant remissions att his pleasure; and tho this may weigh with the Judge who promised, yet the law confiders the partie confessing still guiltie, and so does never secure him; *et quod potest condemnari tenent omnes. Cod. de iis qui ad Ecclesiam effugiunt. Alciatus lege de verborum significatione*, and Clarus himselfe sayes, *Ego suspicor opinionem Caij esse magis communem*, but giveing his own opinion rather as a privat man then a lawier, sayes, *Ego tamen non condemnarem ad mortem nisi alijs indiciis fuerit gravatus. Ergo reus indiciis gravatus est morte plectendus*, which is most just and reasoneable, for tho the law be jealous wher a meer fillie innocent confesses to a Judge who may terrifie him, or have any interest in causeing him confesse, and lay the blame on his friends; yet wher the pannell's own confessionne proceeded from a person suspected be all the world, by a persone who publickly in all places since hes owned the deed, who fled upon that accompt, who being taken with unlawfull weapons unfit for his professionne, and the specifick weapons which committed the attempt; who condescends upon all the circumstances, and

declared that he gloried in being a martyre upon that accompt, in being seen runne away with a pistoll in his hand, in being found out in a thousand lies and prevaricationes when he wes examined, and had renewed his confessions publicklye; it wer but to scorn the law and massacre mankynd to think that a confession so adminiculat should not hold the confesser guiltie, who can alleadge nothinge of any threatneing used against him by the Judge, as severe, rigid, unjust, or partiall. But the confession is alleadged to be made upon promise of lyfe given by my Lord Chancellor, whose benigne and gentle temper frees him from all suspicion; and by the proponeing of this exculpatione acknowledges *verisimilis*, whereas heir this confession is adminiculat by many other circumstances—such as persons who saw him run away—by his owning of the principle since his fleeing; and so that heir neither can he instruct why he retracts, and the thinge confessed is adminiculat by many other circumstances *et indiciis*. As to the objection founded upon the Act of Parliament, that all probatione must be in presence of the assyse; it is replied, That the heall force of that Act is greatly mistaken, for the designe of the Act was to correct a barbarous custome, whereby accusers wer allowed to solist and to produce to them such wrytts and witnesss as they pleased for probatione, to preclude the pannell of what he could say against the same, since false papers might be throwen in as confessions and prooffes; but that cannot reache this case, wher a confession is produced before a pannell and his procurators, and they heard to object against the same; nor can it be urged from this Act that no paper can be relevant but what is owned be the pannell in presence of the assyse; for we daily see that letters produced under the pannell's own hand, tho he should denye his subscription, will be sustained, and it will be sufficient to prove be witnesss, or by comparison of letters that he did subscriyve. Likeas, that Act of Parliament does not exclude that confession before the Lords in matters of falsehood, and decreits therupon may not be probative before the Justices.

Likeas, confessions taken before the Justices—tho no assyse be present—doe, without all controversie and debate, prove the cryme; and yet neither can the Justices condemne without ane assyse, nor does that Act of Parliament militat more against that case, nor this: and in the case of Findley M'Nabbe, a confession taken in the Tolbuith without a fenced Court, and before ane Judge, wes sufficient to inferre the cryme of death, both by the Councill and Justices; and it is admired, how it can be thought that presumption can be sustained as the foundatione of a criminal sentence as wee dayly see, and that witnesses which in effect are but presumptive; and yet a man's own confession, emitted seriously and in cold blood, should not be sufficient, and as ther could be nothings more dangerous to the Commonwealth [than] that crimes should be rendered thus unsearcheable; so what hazard can there be to the people on the other hand, or the pannell, when they are made their own judges, and to take off all possibilitie of danger, it shall be allowed to them to prove terror, force, innocence, or mistake; and this probatione hes been in all ages and nations sustained as uncontroverted, as David ordained the person who said he killed Saul, immediatly to be execute without further inquire, giving as the undoubted reasone, that he had condemned himselfe out of his own mouth, and which is registrat in Scripture to secure the image of God against those who would deface it; and if such confessions should be sustained in anie case, much more in this, wher the nature of the cryme is atrocious, and the manner of the discoverie is extraordinarie difficult; and if either atrocitie or difficultie prevails with lawiers to remitt somewhat of its extraordinarie rigour in exacting cleare probatione, as wee see *in criminibus exceptis et criminibus domesticis*, much more when both these concur, ought a man's own confession be admitted; and wheras, ordinarie pannells are penitent first when examined, the horror of the crimes softneing their hearts, their confessions then should not prove, it wer impossible and fruitless to expect that after they are imprisoned among

a companie of other malefactors, and after they have the aid of lawiers to wait upon them to teach them the arte of retractation, and that their conscience growes callous and acquainted with the idea of their own cryme, what sincere confession may be then expected from them.

MY LORD ADVOCATE declares he does not insist against the pannell for conversing with rebels att this tyme, and insists upon the shooting att a Bishop or Minister, being before the late Act of Parliament 1670, to inferre ane arbitrary punishment, and insists upon mutilatione as capitall, upon the Act of Parliament anent demembratione, which is *reddere membrum inutile*; and a man is also much dismembred when he hes ane useles hand, as if he had no hand; and insists upon the 28th Act, Parliament 3^d, James IV., wherein slaughter, and mutilatione upon forethought felony, are equiparatt, and the pannell declared to be punished be death in both thesse cases; but referres the punishment of mutilatione to be qualified by the Justices according to what shall be found heir proven, and to what hes been the custome of the Justice Court formerly in such cases.

DUPPLY.—SIR GEORGE LOCKHART duplyes, as to the defence founded upon the 4th Act 16th Parliament, King James VI. That the lybell is not relevant, not condescending upon the expresse qualificatione which the Act of Parliament requyres, is nowayes eleided by the alledgeances contained in the reply; for 1^o, The Lords of Justiciarie wold be pleased to take notice that ther is no specialitie in the case of this Act of Parliament as to Privie Counsellors, but that it extends to all his Majesty's officers, and, consequently, the meanest officer being invaded in the termes and under the qualificatione contained in the Act of Parliament, might pleade the benefite theirow; and if the lybell should be sustained in generall termes, without the expresse qualificatione, the simple act of invasion of a Lyon Herald, tho neither death nor wound followed on it, would inferr the pain of deathe; but that no such thinge is the meaning, nor can subsist with the Act of Parliament, is so cleare and evident, that it wes impossible for

the witt of man to expresse the qualificacione to be lybelled, and positifely proven, in more plain and direct termes then is sett down in the said A&; in sua farre as the A& of Parliament requyres, be way of provifion and conditione, in the statutorie part therof in thir termes, "It being verified and proven, that any of the saidis Councillors, fessioners, and officers, wes pershued and invaded for doeing his Majestie service, shall be punished to the death;" and ther is greate reason and necessitie for this qualificacione, becaus the A& of Parliament intending, contrare to the generall custome of nations, and of this Kingdom in all other crymes, that *conatus et attentatum*, which is only relevant in the cryme of treason, should be reputed *crimen consummatum* in case of invasion of any of his Majesty's officers, therfor the law requyres this qualificacione in matter of fact; farther, that it should be verified, that the person invaded wes doeing his Majesty's service, in which case the cryme had a respect, and in construction of law as done against his Majesties authority, which he wes then executeing; and heir this qualificacione, in matter of fact, that it wes for doeing his Majesty's service, is not so much as lybelled, and in the opinion of all lawiers, as may appeare by Jul. Clarus, § *affassinium*, 2, *ubi agitur de imponenda pœna alicujus constitutionis oportet quod in illo casu verificentur omnes qualitates in ipsa constitutione expressæ, alias pœna non committitur, et hæc* (sayes he) *est doctrina communiter ab omnibus recepta*, and most especiallie when it is ane extrinseck qualitie and aggravatione. But when it is a qualificacione requyred by law itselke, as *integrans delicti*, and as Gomes hes it, *alterutrum pœnæ*; and therfor it most be *totidem verbis* lybelled and positifely proven.¹

And as to that pretence that it is to be presumed and inferred from the circumstances, and the way and manner of committing the fact itselke, and that *propofitum* and designe cannot be otherwayes proven *nisi per indicia et*

¹ [Marg.]—See *Lanfrancus Balbus*, *Decisi.* 223, *Andreas Gayll*, *de pace publica*, cap. 13, numero 6.

conjecturas, It is duplyed, The qualificatione requyred by the A& of Parliament is *toto cælo* different from the designe; for if a person did invade ane of his Majesty's officers, doeing his Majesty's service, and wold pretend that he had no designe to invade, certainly the pretence wer absurd, and in that case the designe *præsumitur ex natura attentati*; but the dischargeing of his Majesty's service is not a designe, but a matter of fact, which consistis in ane extrinsick action, and most be proven, and may and does often occurre; as, for instance, if a magistrat should be invaded in the actuall execution of his Majesty's authoritie; or if the invader should be transported so with rage, as when he invades a Judge to tell him that it wes becaus he hes unjustly decerned, thesse and the like cases, are indeed in the termes of the A& of Parliament, and the simple invasion, tho no wounds followed, being directly levelled against his Majesty's authoritie, *nudus conatus et affectus delinquendi reputantur pro effectu*; and as this is cleare from the exprefs words of the Act of Parliament, and which being *in materia correctoria et criminali* is strictly to be interpret, so it is also unanswerable evinced from the A& of Parliament, King Charles I. of blessed memorie, by which it is proven that the invasion and violence done to ministers is punisheable conforme to the A& of Parliament 1587, to which it relates, which is confiscatione of moveables; and declares, that the said A& is to be extended to Archbishops and Bishops, from which the pannell's procurator argues thus: If by the posterior A& of Parliament *in anno* 1633, the invasion and violence done to Bishops is not punisheable with the pain of death, but only ane arbitrarie punishment, how is it possible, that the 4th A&, Parliament 16th, James VI., should inferre the pain of death upon the invasion as it is circumstantiat and lybelled, wher nothings is lybelled but that the Archbishop wes invaded, who wes a Privie Counsellor, and not the qualificatione that is requyred by the said A& of Parliament, that it wes for doeing of his Majesty's service.

And as to that alledgeance that the pannell cannot condescend vpon

any private ground of quarrell, or other reasons why he did invade the Archbishop. It is answered,—If this alledgeance wer sustained, it wer contrare to the Act of Parliament lybelled upon, which does not requyre the pannell to prove, but that it must be tryed and verified that the invasion wes for doing of his Majesty's service; and so his Majesty's Advocat most prove the same by a cleare and positive probatione as a poynt in matter of fact. And as to that pretence that the pannell did glorie that he had committed the fact and invasion lybelled, and endeavoured to infuse the same and perswade others that it wes lawfull; it is duplied, That as the saids qualifications are altogether disowned, so they are no wayes the qualifications in matter of fact requyred be the Act of Parliament, viz. That the invasion and violence wes for doing of his Majesty service, which is indispensable requyred upon the reasons above mentioned; otherwayes the Act of Parliament should have said no more; but that all invasion of his Majesty's Privie Counsellors, or other officers, should be punished with death; whereas, the Act of Parliament thought it just and necessary, and fitt for all men's securitie, that any single act of invasion of any of his Majesty's officers, however it might be punished *pœna arbitraria*, yet should not import or inferre the pain of death.

In sua farre as the dittay is founded upon the common law, and its *affassinium* in which *conatus et attentatum habentur pro crimine consummato*; it is answered, The dittay is nowayes relevant, becaus it is not founded upon any Law or Act of Parliament of this Kingdome, and the common Roman Law cannot be the foundatione of criminall dittayes, wherby to draw in hazarde the lyves of any of his Majesty's subjects; likeas there is cleare, expresse, and positive Acts of Parliament to the contrare, as the 48 Act Parl. 3, Ja. 2, Act 79, Par. 9, Ja. 4, declaring that the lawes of no other realme are to be regarded, especiallie wherupon to found criminall indytement. And albeit be the common law, *conatus in homicidio*, especiallie wher it wes *homicidium dolosum*, and designed to be committed *pro-*

ditorie et per infidias, was punished as *crimen consummatum*; yet all lawiers aggrie, as may appeare by Jul. Clar. Quest. 102. Farinatus, Q. 80, and by the authorities by them cited, that by the generall custome of all nations *in omni genere homicidii, affectus, conatus et attentatum*, is not punishable *pœna ordinaria delicti*, and so cannot inferre the pain of death, as is concluded in this indytement. And as to that pretence that the cryme lybelled is the cryme of assaffinatione, in which *nudus conatus* is sufficient, especiallie *si devenerit ad actum proximum*; it is answered, 1^o, That all lawiers doe aggrie in this, that *crimen affassinii* is only wher a person does hyre, and conduce another to commit the same *interveniente pretio*; and for which Jul. Clar. § *affasin*. wher he so descryves the cryme and Math. *de Criminibus* does so descryve the same, and does expressly assert that unlesse money or rewarde intervein, the cryme of assaffinatione cannot be committed, where the words are *crediderim tamen nisi merces certa sceleri proposita et constituta fuerit, five in specie seu corpore, five in pecunia numerata non posse eum videri affassinum*, and there is no lawier extant that did ever otherwayes descryve that cryme; and ther is greate reasone why money or rewarde should be considered in the constitution of this cryme, becaus the law did consider the cryme with respect to the hazard, and the hazard lay wher persons wer hyred and conduced by infidels, by giveing of money or other rewarde to kill Christians; and albeit even in the proper cryme of assaffinatione itselke, in some particular nations wher the said cryme wes too frequent, as in Italie, *conatus* is punishable, and Jul. Clar. in the same, and others, doe maintain that by the generall custome of most nations, in that precise cryme of assaffinatione, *conatus seu attentatum* is not punishable with the pain of death. But the pannell hes no reasone to insift upon this, this matter of fact lybelled being no wayes the cryme of assaffinatione, but only that which lawiers call a designe to committ murder, *proditorie et per infidias* in which

all aggrie that by the custome of all nations, *conatus faciendi non reputatur pro facto*.

As to that poynt of the dittay founded upon the mutilatione of the decest Bifchop of Orkney, conforme to the 28 A&, Parl. 3, Ja. 4th; it is answered, That denyeing that the decest Bifchop of Orkney wes mutilat fo, albeit it could be proven, it cannot inferre the pain of death; firft, becaus it is cleared by the faid A& of Parliament, that it is not in the cafe of mutilatione but difmembratione, and it wer a ftrange imaginatione to thinke that if a partie wer mutilat, or loft a finger, that the pain of death could be inferred, and ther is a great difference betuixt demembratione and mutilatione; mutilatione being only ane inabilityie or privatione of the ufe, whereas demembratione is the inteir loffe of the member, and it is a principall in law, that A&s of Parliament, especiallie in *caufa criminali et capitali* cannot be extended, *de caufa in causam etiam ex identitate vel paritate rationis*, and that *cortici verborum adhærendum est et casus amiffus habetur pro omiffio*, and heir ther is not paritie of reafone, both the prejudice and deformitie being farre greater in the cafe of demembratione then mutilatione.

And wheras it is pretended, that tho the pannell's confeffione had been elicite *sub spe impunitatis*, that yet it is not fufficient wherupon to liberat from capitall punishment, becaus ane judge cannot remitt ane cryme; and that Boffius and others are cleare that notwithstanding of fuch a confeffione upon promife of immunitie, yet a judge may and ought to condemne *ad pœnam ordinariam delicti*; it is answered, The pretence does not elide the defence, becaus fuppoſeing it ſhall be proven that the confeffion wes elicite *sub spe veniæ*, and upon affurance of lyfe, fuch a confeffion fo elicit cannot be a ground wherupon to violate the faith and impunitie given, and farre leffe can fuch a confeffion, tho any could be proven, being retracted, be confidered as a confeffion, and as to which, law

and lawiers are very cleare and positive : The law is *Lex 3, Cod. de custodia reorum*, and lawiers, as may appeare in *Math. de Criminibus, quæst. 16*, wher his expresse words are, *Quærent, an confessio promissa impunitate, et spe veniæ elicitæ sufficiat ad condemnandum ? Respondendum non sufficere : tametsi enim in judicis potestate non sit, promittere cuidam impunitatem, adeoque ex promissione non obligetur, tamen dolo extorta est, et per hanc fraudem etiam innocentes illaqueari possent.* And Boff. in that title *de Confess.*, after he hes stated the case, resolves it thus, *Tutius tamen est ut dicamus requiri perseverantiam, et est ex mente doctorum et cum ratione quin negari non potest quin talis confessio sit obumbrata*, and sayes it wer against humanitie itselſe to condemne *ad pœnam ordinariam delicti* in such a case ; and Jul. Clar., cited be his Majesty's Advocate, *ego non condemnarem ad mortem* : and which indeed is the constant and irrefragable opinion of all lawiers, and practize of all criminall tribunalls. And whereas it is pretended, that Jul. Clar. subjoynes theſſe words, *Nisi aliis indicis sit gravatus*, and his Majesty's Advocat condescends upon severall presumptions. It is answered, If his Majesty's Advocat will lay asyde the confessione, and adduce such a presumptive probatione, wherupon the pannell may be condemned, then he may plead the benefite of that qualificatione. But the presumptions condescended upon are remote conjectures, and no wayes concludeing, and the pannell, after the alledged committing of the fact, did returne and live peaceable for severall yeirs, and denyes the fact, and cannot be otherwayes convict therof ; and if any pretended confession should be made use of, either *per se*, or *per modum adminiculi*, it cannot be dyvided from the qualitie under which it wes granted, which the pannell offers to prove wes upon expresse assureance ;—And wheras it is pretended that the granting of ane assureance or impunitie is upon the matter a remission which no inferior judge can doe, but that, notwithstanding, he may and ought to condemne,—it is answered, (1^o) It will appeare by the probatione of what character and qualitie the granter of the assureance wes. (2^{do}) Lawiers do not confi-

der whither a judge *poteſt veniam concedere* or remitt a cryme, but a confeſſion being elicitte *ſub ſpe veniæ* is not a full and abſolute confeſſion, but a qualified, and cannot be made uſe of, and the qualitie not performed and made good; and it wer a prejudice to publick intereſt, and a way to preclude the ingenuitie of all confeſſions, if, notwithstanding of the interpoſitione of publick faith, and the granting of aſſureances, and the eliciting of confeſſions *ſub ſpe veniæ*, the confeſſion might be made uſe [of] and the qualitie and condition upon which it wes emitted altogether neglected, which is dounright inconfiſtent with the opinion of lawiers and the practice and cuſtomes of criminall judicatories. And as to what is alledged, that tho this confeſſion had not been emitted before the Lords of Juſticiarie, yet it wes not extrajudiciall or revockable, becauſe it wes deliberately given, and before a committee who had authoritie from the Lords of his Maſteſty's Privie Councell, it is answered, That that poynt is of extraordinarie importance and conſequence as to the lyves and fortunes of his Maſteſty's ſubjects, and as to the Lords of Juſticiarie and procedour of the inqueiſt, who are judges of the probatione. And, therfor, it is repreſented in behalfe of the pannell, that admitting any pretended confeſſion ſhould be produced, yet, if it wes not emitted before the Lords of Juſticiarie, it is not a judiciall but extrajudiciall confeſſion, *et fidem non facit*, as to the probation. And as to which (1^o) their is ane univerſall concord in the opinion of all lawiers, and in the practice and cuſtomes of criminall judicatories, and as to which the Lords of Juſticiarie are deſyred to caſt ther eye upon all who have written upon this poynt, and, as Clarus ſayes, *non invenies diſſentientem in mundo*; and it is a ſtrange cuſtome if all lawiers and the cuſtome of all nations ſhould have been halucinat in this poynt, for which the pannell's procurators cite Jul. Clarus, queſt. 55, Farinatus, Q. 81, and many other lawiers are lykewayes cleare that confeſſions emitted *coram judice competente, ſed non ſedente pro tribunali*, is but ane extrajudiciall confeſſion, and much more wher it is *confeſſio emiſſa coram*

judice incompetente, and when the question is who is to be reputed *judex incompetens*, it is positively resolved that *omnis judex est incompetens* who could not proceed *ad condemnationem* as to the cryme as to which the confession is emitted; and certainly tho any confession wer produced, emitted before the Lords of Privie Councell, they have no criminall jurisdiction, so as to proceed *ad condemnandum in crimine capitali*, that being cleare by Craige, *lib. 1, dieg. 8*, that *ex eorum statutis nec periculum vitæ, hæreditatis, aut omnium fortunarum subire posse*. And wheras it is urged that the Lords of Privie Councell have a mixed jurisdiction, and may proceed be way of precognition, *et per modum inquisitionis*, and may resolve doubtfull cases and qualifie sentences,—it is answered, That it is not denyed that the Lords of Privie Councell have and doe verie weel deserve that jurisdictione; but as to criminal jurisdiction in capitall cases, it is only competent before the Lords of the Justiciarie, and the pre-cognitions or prævious inquisitions tend not *ad condemnationem*, but only as to this, whither to stoppe or remitt to the Lords of the Justiciarie; and nothing is considered as a judiciall confession but wher ther is *formatus processus*, and wher a partie is called *coram judice competente*, and he is *sub instante periculo vitæ*, and knowes that the infallible import of his confession is to that verie effect for his condemnation, non of which can be pretended wher the confession is emitted *coram judice incompetente ad condemnandum*.

And wheras it is alledged, That a confession in the opinion of Lawiers cannot be retracted unlesse the partie could *docere de errore*, and purge his innocence, and did it *ex incontinente*,—it is answered The alledgeance is groundles; for tho a confession wer emitted *coram judice competente pro tribunali*, it might be retracted *ex incontinenti*, if he wer able *docere de errore*; and ther is no lawier ever requyred it in other termes. But wher the confession is emitted *coram judice incompetente fidem non facit quoad probationem delicti*, and may be retracted eyther *ex incontinenti*, or

Omnino, vide
Lanfrancum
Balbum de-
cisione 104
& 462.

ex intervallo, and without shueing of any error or purgeing of innocence such confessions in law not amounting to any probatione, no more then as lawiers argue if the depositions of witnesses should be taken *in uno judicio*, wold *fidem facere* either *in causa civili aut criminali in alio judicio*; and certainly ther is lesse reasone for confessions wher parties disowne the same and retracts them if emitted, and much more heir, wher the pretended confession was elicited *sub spe veniæ*; so farre was the pannell from thinking that the emitting of his confession was in order to his condemnatione, speciallie seing it neither is nor can be proven that the said pretended confession was so much as judiciallie given in face of the Councell, wher his Grace the D. of Lauderdale, being then Commiſſioner, was present, and the pannells procurators will not debate the import of the same, but remitt it to the Commiſſion itſelfe in caſe it be offered to be proven that the confession was emitted judicially before the P. Councell: And whereas it is alledged, that the A& of Parliament, A& 91, Par. ij J. 6, ordaining all probatione to be led in preſence of the aſſyſe, does not concern the caſe, and is miſunderſtood, ſeing heir the confession will be produced in preſence of the aſſyſe,—it is answered, The A& of Parliament is cleare to the contrare, and can admit of no ſuch interpretatione; for albeit the narrative of the A& of Parliament was only *cauſa impulſiva*, and the ſtatutorie part of that A& of Parliament is cleare and poſitive, that all probatione ſhould be deduced in preſence of the aſſyſe, and of all uther probatione ther is the greateſt reasone that the verie a& of confessione ſhould be in preſence of the aſſyſe, who are judges to the probatione, and who are to proceed upon oathe, and whoſe conſciences are to be ſatiſfied and inſtructed as to the way, and manner, and conditions, and termes wherupon ſuch confessions wer emitted, all which are concealed wher ther is nothing produced to them but a confession taken without ther preſence, eſpeciallie ſeing the pannell alleadges and offers to prove, that ſeverall poynts of fa& and other particulars wer condeſcended vpon

and declared, non of which are mentioned in this pretended confession, all which should have been insert, and could not be divyded as being in *articulo connexo*.

And wheras it is pretended that a decreit pronounced by the Lords of the Session is *probatio probata*, and wherupon assyfers may and ought to condemne,—it is answered, The argument is in *materia disparata*, and does not concerne the matter of confession, and is only in a speciall case of falshood, and that upon a speciall reasone. Becaus the investigatione of falshood depended upon a tryall and concurse of many and violent presumptions, which may requyre a longe tract of tyme and examination of parties and witneses, it wer impossible that such tryalls could be deduced before ane inqueist, thesse depending severall yeirs many tymes before the Session before they can be brought to a close. And therfor law and custome in that case hes sustained a decreit before the Lords of the Session as a probatione in *judicio criminali*. But it is absolutely denyed that it wold hold in any other cryme, and certainly if the cryme of theft wer pershued civilly before the Lords of Sessione, *ad damnum et interesse*, tho the theft should be proven or confessed before the Lords of Session, it wold not *fidem facere in judicio criminali*, as is evident by the authoritie of lawiers, who agree, that *Acta probatoria in uno judicio fidem non faciunt in alio*; nay, which is more *acta probatoria in uno processu fidem non faciunt in alio processu coram eodem iudice*; and as to the instance of the practise of M^cNabbe, the pannell oppones the same as not probative, but, on the contrare, it does appeare in the case of Frazer, in the yeir 1641, that Sir Thomas Hope, being then his Majesty's Advocat, declared, that a confession emitted before a shireff-depute, who hes a criminall jurisdiction in some cases in the fines allowed be law, and who, beyond all doubt, is judge competent *per modum inquisitionis*; yet so convinced wes he that it wes an extrajudiciall confession, that he only infisted thereon *per modum adminiculi*, and joyned it with the other probatione mentioned in that practise

which was *per se* convincing and sufficient. As also since his Majesty's happy restitution, in the case of on Robertson, altho the confession was emitted before on of the Lords of Justiciarie and his Majesty's Advocat for the tyme; yet he was so convinced of the insufficiency of the same, that after it was produced *per modum probationis*, he took up the samen even in that estate of the process when the assyse was sworne. And as to the instance of divinitie in David's practise, it does not concerne the poynt of law, and cannot be made appear that the partie retracted his confession, and it is a practise that eyther *nimum* or *nihil probat*. In respect whereof, &c.

Followes the Interlocutor.

The Lords Commiffioners of Justiciary having considered the dittay and debate relating therto, find that article of the dittay founded upon the 4th A& in 1600, bearing the pannell's invadeing of St. Andrews ane Privie Counsellor, for doeing of his Majesty's service, relevantly lybelled; his Majesty's Advocat proving the presumption that it wes for St. Andrews persecuting thesse at Pentland Hills, or some words to that purpose, relevant to inferre the pain contained in the said A& of Parliament, and remitts the same to the knowledge of ane Assyse. And lykewayes, that part of the dittay anent invadeing Bischops and Minifters, to inferre ane arbitrarie punishment, and the wounding of the Bischop of Orkney lykewayes to inferre ane arbitrarie punishment, and such lyke finds the confession emitted before the Committee of the Counsell, and renewed in prefence of the Commiffionar and Lords of his Majesty's Privie Council, judiciale, and cannot be retracted; and lykewayes, that the same wes emitted from promise of lyfe, finds the same relevant to secure the pannell as to lyfe and limb, in case the defence shall be proven, reserving to the said Lords to inflit ane arbitrarie punishment upon the pannell, and remitt all to the knowledge of ane Assyse.

No. IV.

AN ACCOUNT OF THE ARRAIGNMENT, TRYAL, ESCAPE,
AND CONDEMNATION OF THE DOG OF HERIOT'S HOS-
PITAL IN SCOTLAND, THAT WAS SUPPOSED TO HAVE
BEEN HANGED, BUT DID AT LAST SLIP THE HALTER.⁽¹⁾

SIR,

Knowing that you are difirous to hear newes from *Scotland*, I thought fitt to shew you that that A& whereby all publick officers are obleadged to take the Teft, is rigorously put in executione, and therby many perfons, baith in kirk and state, throughout the haille kingdome, by reasone they are not free to take the said Teft, are incontinently turned out of their places; whilk severitie gave occasione to a wheen loun ladds, belonging to the hospital of Hariot's Buildings in *Edinbrough*, to divert themselves with somewhat like the following tragi-commedy.

The lounes it seems fell intil a debate amongift themselves, whither or no, ane Mastiffe Tyke, who kept the outmost gate, might not, by reasone of his office of trust, come within the compasse of the A&, and fwa be obleadged to take the Teft, or be turned out of his place.

⁽¹⁾ See page 55 of the present volume for Lord Fountainhall's allusion to this incident, intended as a burlesque on the Test Act, in 1681. It is given from the original broadside, printed probably at Edinburgh, although, for the sake of concealment, it has London on the imprint.

The Tyke therupon was called and interrogat, Whither he wold take the Test, or run the hazard of forfaiting his office, whilk was asked again, and again.

The filly Curr boding no ill, answered all their queries with silence, whilk had been registrat as a flat refusall, had not on of the lounes, mair bald then the rest, taken upon him to be his advocat, who standing up, pleaded that silence might as wel be interpreted assent as refusal, and therupon insisted, that it might be tendered to him in a way maist plausible, and in a poustar maist agreeable to his stomach.

This debat lasted not long, until all agreed that ane Printed Copy should be thrumbled, of as little boulke as it could, and thereafter smured over with tallow, butter, or what else might make maist tempting to his appetit; this done, he readiely took it, and after he had made a shift, by rowing it up and down his mouth, to separat what was pleasant to his pallat; and when all seemed to be over, on a sudden they observed some what (ilke piece after another) dropped out of his mouth, quhilk the advocats on the other side said it was the Test, and that all his irksome champing and chowing of it, was only, if possible, to separat the concomitant nutriment, and that this was mikel worse then an flat refusal, and gif it were rightly examined, would, upon tryal, be found no less than leifeing-making.

To this his advocat opponed, That his enemies having the rowing of it up, might perhaps (through deadly spite) have put some crooked prin intil it, and that all the fumbling and rowing of it up and down his mouth, might be by reason of the prin, and not through any scunnering at the Test it self, and that ther was nought in the hail matter that looked like leifeing-making, except by interpretation, and his adversaries allowed to be the only interpreters. Yea, what was mair offered, that his client should have a fair tryal before competent judges, quhilk was unanimously granted.

A Court therupon being convocat, ane affize constitut, the indictment being read, ther fell out warm pleading upon baith fides amongst the Advocats; those against him pleaded, that he was-ou'r malapert to take so mikel upon him, and that the chaming and cherking of the Test belonged nought to him, nor to none like him, who served only in inferior offices, and that his trust and power reached nought so far, and by what he had done, he had made himself guilty of mair nor a bare refusal, according as was libelled. Those for him pleaded, That he could be guilty of nather, since he had freely taken it in his mouth, willing to have swallowed it down, and that ther was no fault in him, bot in its self, that it passed not, since it fell a sqwabeling, one part of it hindering another, fighting in his haffe, and if [it] wold have agreed in its self, to have gone down all one way, he wold blaitly swallowed it, as he had done many untouthsome morsel before, as is well known to all the Court; ane other pleaded, that he had officiart very dutifully, and was niver known to balk his trust: bot that was answered with this, all his former good service could not excuse his present guilt: guilt, qwoth an other, if that be guilt he hath many marrows, and why should he be worse handled then all the rest? Bot whatever could be said in his favors, when the business came to the Jury, they found that he had so mangled the Test with his explanatory tongue and teeth, and swa misleardly abused it with his flaver, that it was right soon agreed upon to be at least Interpretative Treason; and, consequently, brought him in guilty of Leiseing-making. Wherupon he was ordered to close prison, till ane other time that the Court call him forth to receive his doom, to be hanged like a Dog.

(As the lounes was removing him from Court to Prison, ther chanced a Curat to be present, who asked what was the matter,—what ailed them at the Dog? one of the limmers answered, That he being in publick trust, was required to take the Test, and had both refused it and abused it, wherupon he was to be hanged. The Curat storming, said, They de-

serve all to be hanged for such presumptuous mockery. The lounes laughing aloud, cryed out, with one consent, That he and his brethren deserved better to be hanged then any of them, or the Tyke eather, since they had swallowed that which the Tyke had refused.)

This surprisfeing verdi&t, you may be sure, created no small grumbling of the gufforne, with the advocats and others, who spared not to utter ther privat sentiments, and blaze abroad the arguments *pro* and *con*, and what further might have been homologating, had not the Court haifted to have the Tyke's life; take a few of them as they come to hand.

Some suspected deadly fewd in the Chanfelor of the jury, alleadging that ane enemy was not fit to be a judg; this was answered with, that he was of more noble extra&t then to stain his honor with so base an a&t, and that his own reputation wold make him favored; an other objected, that a Tyke's refusing so good a Test, might be of ill example to creatures of better reason; to this a pakie loun answered, that it could not be good, since Lyon Rampant, King of Tykes, nor none of his royal kine, wold not so much as lay ther lips to it, far less to swallow it, and therefore—this was interrupted by on who was a principal limmer among them, (a contradi&tion reconciler,) who wold needs help him with a logical disti&nction, wherby he, like ane Aberdeen's man, might cant and recant again.

But he was soon snibed by another, who said, that the Tyke wold nather sup kail with the Divil, nor the Pope, and therefor needed not his long spoon; well, said ane other, this is mair nor needs, since we are all sure that the Tyke cold not have kept his office so long, bot he most needs have swallowed many a buttered bur before this time, and it was bot gaping a little wider, and the hazard was over. Nay, qwoth his nighbour, the hazard wes greater then ye imagine, for the Test, as it was rowed up, had many plyes and implications in it, ane contrary to another, and swa the Tyke might have been queikened ere it had been all over, ilk ply as it were rancountering another wresling and fighting in his hafs.

Prait, quoth another, this laft apologie is needlefs, fince the Tyke hath (in my opinion) fwallowed the better part, if not the hail Teft, though I moft confels he hath vomited it up again, let us therfore try him, if, like a Dog, he will lick up his own vomit, bot this project was univerfally rejected, baith by the maift charitable, as bootlefs, and by the mair fevere, as to great a favor.

Favor, (qwoth a chield, who had been [fleeping] all the while, and only heard the word favor,) what, fhew favor to fuch a loun as he? na, rather let him who hath the longeft arm, thruft it fo far down his throat, fo that another may pull it out at his tail, then be thus fafht with him, though he were my own brother, and then we may be fure he hath taken it, and all the parts of it, bot this only moved laughter, for none was found that wold undergo fo foulfome a hazard.

But to return to the Tyke, for fome will be curious to hear what came of him, matters being thus præcipitat, and all hopes of reprieve uncertain, a wylie loun advifed him to lay by the fheep's (which had done him fo little good,) and put on the foxe's fkin, who covertly, through fear, hiding his own tail between his legs, and griping another's train, paffed through all the gates undiscovered, and fwa is a-miffing.

This he was forced, when right did fail,
To give them a flap with a foxe's tail.

Now, what is become of him fine fyne, and what proclamations was iffued out after him, you may probably hear hereafter.

Mean while, becaufe the contradicition reconciler was fofoon (contrary to the laws of difputation,) interrupted, before he could bring forth his logical diftinction; and fince the curious have forely tortured ther ingines, fearching which of the fchoal nicities that might [be], I fhall only trouble you with a few of ther conjectures, and leave it to the judgment of the learn'd to determine which had been maift fuitable.

One fancied that it was this that the Tyke might take the Teft, *secundum quid*, though not *simpliciter*; ane other, *in sensu diviso*, though not *in sensu composito*; a third, that though it was deadly to take it with *verbal interpretations*, yet it might be safe enough with *mental reservations*; a fourth bethought him on this, that though his stomoch did stand at it, *in sensu univoco*, yet might easily digest it *in sensu æquivoco*; a fifth, (gerning the while,) was for this, that it might take it, though not *formaliter* in at his mouth by way of potion or bolus, yet, *fundamentaliter*, in at this bottome, by way of glister or suppository; a sixth brought forth this blind whely, that it might be safely taken, *in vehiculo cæcæ obedientiæ*, bot could not think on the other member of the distinction, and some said it had none, the times when it was used being so ignorant and unintentive; a seventh, who thought all the former distinctions too subtil and airie, and that which was bred in the bone went niver out of the flesh, except by more severe medecine then was yet tried, proponed an admirable compound to be used as an excellent preparative to the Teft, alleadging that all those needlesse scrupulosities did proceed from these ill humors which could not be expelled, without the total evacuation of Christianity; the Receipt, as it was transcribed out of the packet of advice from *Rome*, take as follows, from the laboratory of the Inquisition, *June 22*.

“ After many years pains and study, a niver-failing medicine, called a Catholique Pill, to purge out Christianity, approved by the most learned Fathers in *Spain, Italy*, and other places, the true Receipt is as follows:— Receipt, Take fiveen pound weight of lay-ignorance, as many drhames of Monckish devotion as you can get, half a score of planary indulgences, and a doufon of well-conceived equivocations, venial-fins as many as you please, and a pocket full of dispensations, boil all these in a Jesuit's brainpan, and add thirto, of the doctrine of probable opinions, and of seminary Priest's loyalty, *quantum sufficit*, after fermentation clape in nine miracles prepared *secundum artem* by the assigns of Father Creffy, to give it a

tincture, sprinkle a small dash of penance, and wrap up the whole mass in the Pope's infallibility, and take it blindfold in a cup of absolution, at any time of life, but especially at the hour of death, and it will do your business. The operation is downward or infernal, carrying all humors that way. It is also opiate or stupifying, because, after a sufficient dose of it, you may swallow any malignity whatsoever, without any hazard of griping. *Probatum est.*"

— *Ridendo dicere verum,*

Quid vetat—Juven. [Horat.]

Now, Sir, the news of the Tyke's escape being blazed abroad, the Court assembleth to consult what was then anent to be done, several overtures was proponed; one said, That the affronting escape, and other misdemeanors of that Tyke, was so great, that the highest severity was too little; an other said, Since he is gone, let him go, what have we more to do but put another in his place; a third said, That his presumptuous and treasonable carriage would be of ill example to others, unless due punishment followed thereupon; a fourth said, Had he not been confident of his own innocency, he would never have byden a tryal, and fine he met with such a surprising verdict, what could he do less then flee for his life? would not the best in the Court, if he had been in his circumstances, done the like; a fifth said, If he had been condemned and hangod in time, he had not played us this prank, but seeing we have missed himself, let us seize well on what he hath left behind him. After debating, they came to a conclusion, and ordered the same to be published; the tenor whereof follows:—

"Whereas, ane cutt lugged, brounish coloured Mastiff Tyke, called Watch, short leged, and of low stature, who being in office of Publick Trust, was required to take the Test, and when it was lawfully tendered to him, he so abused it and mangled it, wherupon he, after due tryal for his presumption, was convict of Treason, and since syn hath broken prison;

wherupon the Court adjudges him to be hanged like a Dog, whenever he shall be apprehended; and in the meantime, declares his office, his hail estat, heiratable and moveable, and all casualties belonging to him, to be echeated and forfeited, and ordeans the collectors of the Court to uplift his rents and casualties, and to be countable to the Court, both for diligence and intermission, and also discharges all persons to refet or harbor the Fugitive Trator; and likeways gives assurance to all persons, who shall eather apprehend him or give true information of him, fwa that therupon he bees apprehended, the person fwa doing shall have 500l. for his pains. Given at our Court, &c."

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